

# CODE OF ORDINANCES CITY OF BLACK JACK, MISSOURI

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Published in 1983 by Order of the City Council

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# municode

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## OFFICIALS

of the

CITY OF BLACK JACK, MISSOURI

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Norman C. McCourt  
*Mayor*

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Donald Krank  
John R. Steigerwald (Rick)  
Albert Schroeder  
Sandra K. Muller  
Arnold Hinkle  
Abdu Raqeeb White (A.J.)  
Benjamin Allen, Sr.  
John Taylor  
*Council Members*

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Sheldon Stock  
*Special Counsel*

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Karen E. Robinson, MRCC  
*City Clerk*

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## PREFACE

This Code is a codification of the ordinances of the City of Black Jack, Missouri of a general and permanent nature.

The chapters of the Code are arranged in alphabetical order and the sections within each chapter are catchlined to facilitate usage. The source of each section is included in the history note appearing in parentheses at the end thereof. The absence of such a note indicates that the section is new and was adopted for the first time with the adoption of the Code. By use of the Comparative Tables appearing in the back of the volume, the reader can locate any ordinance included herein.

Footnotes which tie related sections of the Code together and which refer to relevant provision of the state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this volume.

### *Numbering System*

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two component parts separated by a dash, the figure before the dash representing the chapter number and the figure after the dash indicating the position of the section within the chapter. Thus, the first section of chapter 1 is numbered 1-1 and the tenth section of chapter 20 is 20-10. Under this system, each section is identified with its chapter, and, at the same time, new sections or even whole chapters can be inserted in their proper places, simply by using the decimal system for amendments. By way of illustration: If new material consisting of three sections that would logically come between sections 20-10 and 20-11 is desired to be added, such new sections would be numbered 20-10.1, 20-10.2 and 20-10.3, respectively. New chapters may be included in the same manner. If the new material is to be included between chapters 10 and 11 it will be designated as chapter 10.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

### *Index*

The index has been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology and still others in language generally used by government officials and employees. There are numerous cross references within the index itself which stand as guideposts to direct the user to the particular item in which he is interested.

### *Looseleaf Supplements*

A special feature of this Code is the looseleaf system of binding and supplemental service, by which the Code will be kept up-to-date periodically. Upon the final passage of amendatory ordinances, they will be properly edited and the page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the Code, with instructions for the manner of inserting the new pages and deleting the obsolete pages. The successful maintenance of this Code up-to-date at all times will depend largely upon the holder of the volume. As revised sheets are received it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publishers that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

## Acknowledgments

The publication of this Code was under the direct supervision of George R. Langford, President, and Roger D. Merriam, Supervising Editor of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publishers are most grateful to the City's Prosecuting Attorney, Mr. Sheldon K. Stock, for his cooperation and assistance during the progress of the work on this Code. It is hoped that the efforts of the City and those of the publishers have resulted in a Code of Ordinances which will make the active law of the City readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the City's affairs.

MUNICIPAL CODE CORPORATION  
Tallahassee, Florida

ADOPTING ORDINANCE

BILL NO. 342

ORDINANCE NO. 301

*An Ordinance Adopting and Enacting a New Code for the City of Black Jack, Missouri, Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein; Providing for the Manner of Amending and Supplementing Such Code; and Providing When Such Code and This Ordinance Shall Become Effective.*

Be It Ordained by the City Council of the City of Black Jack, Missouri, as Follows:

*Section 1:* That the Code of Ordinances, consisting of Chapters 1 to 20, each inclusive, is hereby adopted and enacted as "Code of Ordinances, City of Black Jack, Missouri," which Code shall supersede all general and permanent ordinances of the City adopted on or before April 20, 1983, to the extent provided in section [2] hereof.

*Section 2:* That all provisions of such Code shall be in full force and effect from and after January 1, 1984; and all ordinances of a general and permanent nature of the City adopted on final passage on or before December 14, 1982, and not included in such Code or recognized and continued in force by reference therein, are hereby repealed from and after the effective date of such Code.

*Section 3:* That the repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance which is repealed by this ordinance.

*Section 4:* That except as otherwise provided by state law, whenever in this Code or in any ordinance or resolution of the City any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, the violation of any such provision of such Code or any ordinance or resolution shall constitute an offense and shall be

punished by a fine of not less than One Dollar (\$1.00) and not more than Five Hundred Dollars (\$500.00) or by imprisonment not exceeding three (3) months, or both. Each day any violation of any provision of this Code or of any such ordinance or resolution shall continue shall constitute a separate offense.

In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of such Code or any such ordinance or resolution shall be deemed a public nuisance and may be, by the City, abated as provided by law; and each day that such condition continues shall be regarded as a new and separate offense.

*Section 5:* That any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the governing body to make the same a part of such Code, shall be deemed to be incorporated in such Code, so that reference to such Code shall be understood and intended to include such additions and amendments.

*Section 6:* That in case of the amendment of any section of such Code, for which a penalty is not provided, the general penalty as provided in section 4 of this ordinance and in Section 1-13 of such Code shall apply to the section as amended, or in case such amendment contains provisions for which a penalty, other than the aforementioned general penalty is provided in another section is the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

*Section 7:* Any ordinance adopted after December 14, 1982, which amends or refers to ordinances which have been codified in such Code shall be construed as if they amend or refer to like provisions of such Code.

*Section 8:* That this ordinance, and the Code adopted hereby, shall take effect and be in force from and after its passage and approval by the Mayor, as provided by law.

PASSED THIS 3rd DAY OF JANUARY, 1984.

/s/ Harold J. Evangelista,  
Mayor

ATTEST:

/s/ Gloria J. Starzyk,  
City Clerk

APPROVED THIS 4th DAY OF JANUARY, 1984.

/s/ Harold J. Evangelista,  
Mayor

#### SUPPLEMENT HISTORY TABLE

The table below allows users of this Code to quickly and accurately determine what ordinances have been considered for codification in each supplement. Ordinances that are of a general and permanent nature are codified in the Code Book and are considered "Includes." Ordinances that are not of a general and permanent nature are not codified in the Code Book and are considered "Omits."

In addition, by adding to this table with each supplement, users of this Code of Ordinances will be able to gain a more complete picture of the Code's historical evolution.

Ord. No.	Date Adopted	Include/ Omit	Supp. No.
746	5- 7-02	Include	50
882	4-18-06	Include	50
896	<u>12</u> - 5-06	Include	50
991	2-16-10	Omit	50
992	4- 6-10	Include	50
993	4- 6-10	Include	50
994	4- 6-10	Include	50
995	4-20-10	Omit	50
996	4-20-10	Omit	50
997	4-20-10	Include	50
998	5-18-10	Include	50
999	5-18-10	Include	50
<u>1000</u>	5-18-10	Include	50
1001	6-15-10	Include	50
1002	6-15-10	Omit	50
1003	6-15-10	Omit	50
1004	8- <u>3</u> -10	Include	50
1005	9- 7-10	Include	50
1006	9- 7-10	Omit	50
1008	9-29-10	Omit	50

1009	10-19-10	Include	50
<u>1010</u>	10-19-10	Include	50
1011	<u>11</u> - 2-10	Omit	50
1012	<u>11</u> - 2-10	Include	50
1013	11-16-10	Omit	50
1014	11-16-10	Include	50
1015	<u>12</u> - 7-10	Omit	50
1016	<u>12</u> - 7-10	Omit	50
1017	4- <u>5-11</u>	Include	51
1018	6- 7-11	Omit	51
1019	8- 2-11	Include	51
<u>1020</u>	8-16-11	Include	51
1021	8-16-11	Omit	51
1022	9-20-11	Omit	51
1023	9-20-11	Include	51
1024	<u>11</u> - <u>1-11</u>	Include	51
1025	11-15-11	Include	51
1026	11-15-11	Omit	51
1027	11-15-11	Include	51
1028	2- 7-12	Include	51
1029	2-21-12	Omit	51
<u>1030</u>	3-20-12	Omit	51
1031	3-20-12	Include	51

1032	4-17-12	Omit	51
1033	4-17-12	Omit	51
<u>1034</u>	5-15-12	Include	52
<u>1035</u>	6-19-12	Include	52
<u>1037</u>	8- 7-12	Omit	52
<u>1038</u>	8- 7-12	Include	52
<u>1041</u>	10-16-12	Include	52
<u>1042</u>	10-16-12	Include	52
<u>1043</u>	10-16-12	Include	52
<u>1045</u>	11-20-12	Include	52
<u>1046</u>	12-18-12	Omit	52
<u>1047</u>	12-18-12	Include	52
<u>1049</u>	3- 5-13	Include	52
<u>1050</u>	3- 5-13	Include	52
<u>1051</u>	4- 2-13	Omit	53
<u>1052</u>	7-16-13	Include	53
<u>1053</u>	8- 6-13	Include	53
<u>1054</u>	9- <u>3-13</u>	Omit	53
<u>1055</u>	11-19-13	Omit	53
<u>1056</u>	1-21-14	Include	53
<u>1057</u>	5-20-14	Include	54
<u>1058</u>	6-17-14	Omit	54
<u>1059</u>	8- 5-14	Include	54

<u>1060</u>	8- 5-14	Omit	54
<u>1061</u>	9- 2-14	Omit	54
<u>1062</u>	11-18-14	Omit	54
<u>1063</u>	11-18-14	Omit	54
<u>1064</u>	11-18-14	Omit	54
<u>1065</u>	12-16-14	Omit	54
<u>1066</u>	12-16-14	Omit	54
<u>1067</u>	12-16-14	Omit	54
<u>1068</u>	12-16-14	Include	54
<u>1069</u>	1-20-15	Include	54
<u>1070</u>	1-20-15	Include	54
<u>1071</u>	2-17-15	Include	55
<u>1072</u>	3- 3-15	Omit	55
<u>1073</u>	5- 5-15	Include	55
<u>1075</u>	7-21-15	Include	55
<u>1076</u>	8-18-15	Include	55
<u>1077</u>	8-18-15	Include	55
<u>1079</u>	<u>10</u> - 6-15	Omit	55
<u>1080</u>	9-28-15	Omit	55

## Chapter 1 - GENERAL PROVISIONS

### Sec. 1-1. - How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Black Jack, Missouri," and may be so cited.

Sec. 1-2. - Definitions and rules of construction.

In the construction of this Code, and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the city council:

*City.* Whenever the words "the city" or "this city" are used they shall be construed as if the words "of Black Jack, Missouri," followed them.

*Code.* The word "Code" shall mean the "Code of Ordinances, City of Black Jack, Missouri," as designated in section 1-1 above.

*Computation of time.* The time within which an act is to be done shall be computed by excluding the first and including the last day, but if the last day shall be Sunday it shall be excluded.

*Corporate limits, corporation limits, city limits.* Whenever the words "corporate limits," "corporation limits" or "city limits" are used they shall mean the legal boundary of the City of Black Jack.

*Council.* Whenever the words "council" or "city council" are used, it shall be construed to mean the city council of the City of Black Jack.

*County.* The words "the county" or "this county" shall mean the County of St. Louis in the State of Missouri.

*Delegation of authority.* Whenever a provision appears requiring the head of a department of the city to do some act or make certain inspections, it is to be construed to authorize the head of the department to designate, delegate and authorize subordinates to perform the required act or make the required inspection unless the terms of the provision or section designate otherwise.

*Gender.* A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

*Interpretation.* In the interpretation and application of any provision of this Code, it shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where any provision of the Code imposes greater restrictions upon the subject matter than the general provision imposed by the Code, the provision imposing the greater restriction or regulation shall be deemed to be controlling.

*Joint authority.* All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

*Keeper and proprietor.* The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and partnerships, whether acting by themselves or a servant, agent or employee.

*May.* The word "may" is permissive.

*Mayor.* Whenever the word "mayor" is used it shall mean the mayor of the City of Black Jack.

*Month.* The word "month" shall mean a calendar month.

*Must.* The word "must" is mandatory.

*Name of officer.* Whenever the name of an officer is given it shall be construed as though the words "of the City of Black Jack" were added.

*Nontechnical and technical words.* Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

*Number.* A word importing the singular number only may extend and be applied to several persons and things as well as to one person and thing.

*Oath.* The word "oath" shall be construed to include an affirmation in all cases in which by law an affirmation may be substituted for an oath, and in such cases the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

*Or, and.* "Or" may be read "and," and "and" may be read "or" if the sense requires it.

*Owner.* The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or of a part of such building or land.

*Person.* The word "person" shall extend and be applied to associations, clubs, societies, firms, partnerships and bodies politic and corporate as well as to individuals.

*Personal property.* The term "personal property" includes every species of property except real property, as herein defined.

*Preceding, following.* The words "preceding" and "following" mean next before and next after, respectively.

*Premises.* Whenever the word "premises" is used it shall mean place or places.

*Property.* The word "property" shall include real and personal property.

*Public place.* The term "public place" shall mean any park, cemetery, school yard or open space adjacent thereto, and all other property open to the public.

*Real property.* The term "real property" shall include lands, tenements and hereditaments.

*Residence.* The term "residence" shall be construed to mean the place adopted by a person as his place of habitation, and to which, whenever he is absent, he has the intention of returning. When a person eats at one place and sleeps at another, the place where such person sleeps shall be deemed his residence.

*Seal.* Whenever the word "seal" is used it shall mean the city seal.

*Shall.* The word "shall" is mandatory.

*Sidewalk.* The word "sidewalk" shall mean a strip running parallel to streets intended primarily for the use of pedestrians, including parkways.

*Signature or subscription.* The "signature" or "subscription" of a person shall include a mark when the person cannot write.

*State.* The words "the state" shall be construed to mean the State of Missouri.

*Street.* The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the city.

*Tenant, occupant.* The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such buildings or lands, either alone or with others.

*Time.* Words used in the past or present tense include the future as well as the past and present.

*Week.* The word "week" shall be construed to mean seven (7) days.

*Written, in writing.* The term "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

*Year.* The word "year" shall mean a calendar year.

**State Law reference—** Definitions, rules of construction, etc., RSMo. § 1.020 et seq.

Sec. 1-3. - Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- (1) Promising or guaranteeing the payment of money for the city, or authorizing the issuance of any bonds of the city or any evidence of the city's indebtedness, or any contract or obligations assumed by the city;
- (2) Granting any right or franchise or regulating franchises;
- (3) Dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, etc., any street or public way in the city;
- (4) Making any appropriation;
- (5) Levying or imposing taxes;
- (6) Establishing or prescribing grades in the city;
- (7) Providing for local improvements and assessing taxes therefor;
- (8) Dedicating or accepting any plat or subdivision in the city, or otherwise relating to subdivisions;
- (9) Extending or contracting the boundaries of the city;
- (10) Prescribing the number, classification benefits or compensation of any city officers or employees, not inconsistent herewith;
- (11) Pertaining to zoning;
- (12) Which is temporary, although general in effect;
- (13) Which is special, although permanent in effect;
- (14) The purpose of which has been accomplished,

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances are on file in the city clerk's office.

Sec. 1-4. - Provisions considered continuation of existing ordinances.

The provisions of this Code, so far as they are the same as ordinances existing at the time of adoption of this Code, shall be considered as a continuation thereof and not as new enactments.

Sec. 1-5. - Code does not affect prior offenses, rights, etc.

- (a) Nothing in this Code or the ordinance adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or accruing before the effective date of this Code.
- (b) The adoption of this Code shall not be interpreted as authorizing or permitting any use or the continuance of any use of a structure or premises in violation of any ordinance of the city in effect on the date of adoption of this Code.

Sec. 1-6. - Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, or as any part of the sections; nor, unless expressly so provided, shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-7. - Effect of repeal of ordinances.

The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

Sec. 1-8. - Jurisdiction.

Except as otherwise provided, the provisions of this Code shall apply only in the city limits.

Sec. 1-9. - Amendments to Code.

All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein, or, in the case of repealed chapters, sections and subsections or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new code of ordinances by the council.

Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of this Code in substantially the following language: "That section \_\_\_\_\_ of the Code of Ordinances, City of Black Jack, Missouri, is hereby amended to read as follows: \_\_\_\_\_ (Set out new provisions in full)\_\_\_\_\_."

When the council desires to enact an ordinance of a general and permanent nature on a subject not heretofore existing in the Code, which the governing body desires to incorporate into the Code, a section in substantially the following language shall be made a part of the ordinance: "Section \_\_\_\_\_. It is the

intention of the council, and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Ordinances, City of Black Jack, Missouri, and the sections of this ordinance may be renumbered to accomplish such intention."

Sec. 1-10. - Supplementation of Code—Generally.

- (a) By contract or by city personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.
- (b) In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified code. For example, the codifier may:
  - (1) Organize the ordinance material into appropriate subdivisions;
  - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
  - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
  - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections \_\_\_\_\_ to \_\_\_\_\_" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
  - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Sec. 1-11. - Same—Exclusion of special or temporary ordinances.

Ordinances hereafter adopted which are not of a general or permanent nature shall be numbered consecutively, authenticated, published and recorded in the book of ordinances, but shall not be prepared for insertion in this Code, nor be deemed a part hereof.

Sec. 1-12. - Responsibility of officers with respect to assigned copies of Code.

Each city officer assigned a copy of this Code shall be responsible for maintaining the same and for the proper insertion of amendatory pages as received. Each such copy shall remain the property of the city and shall be turned over by the officer having custody thereof, upon expiration of his term of office, to his successor or to the city clerk, in case he shall have no successor.

Sec. 1-13. - General penalty; continuing violations.

Except as otherwise provided by state law, whenever in this Code or in any ordinance or resolution of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code, ordinance or resolution the doing of any act is required or the failure to do any act is declared to be unlawful or an offense, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance or resolution shall constitute an offense and shall be punished by a fine of not less than one dollar (\$1.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding three (3) months, or both. Each day any violation of any provision of this Code or of any such ordinance or resolution shall continue shall constitute a separate offense.

In addition to the penalty hereinabove provided, any condition caused or permitted to exist in violation of any of the provisions of this Code or any such ordinance or resolution shall be deemed a public nuisance and may be, by the city, abated as provided by law, and each day that such condition continues shall be regarded as a new and separate offense.

(Ord. No. 896, § 1, 12-5-06)

**State Law reference—** Penalty for ordinance violations, RSMo. § 77.590.

Sec. 1-14. - Prosecution where different penalties exist for same offense.

In all cases where the same offense may be made punishable, or shall be created by different clauses or sections of the ordinances of the city, the prosecuting officer may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense.

Sec. 1-15. - Severability of parts of Code.

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

## Chapter 2 - ADMINISTRATION<sup>[1]</sup>

*Footnotes:*

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**Cross reference—** Definitions and rules of construction generally, § 1-2; municipal court, Ch. 12; park and recreation board, § 14-16 et seq.; planning commission, § 16-16 et seq.; police, Ch. 17; traffic commission, § 20-35; traffic violation bureau, § 20-71 et seq.; zoning board of adjustment, App. C, § 8.

## ARTICLE I. - IN GENERAL

Sec. 2-1. - Administrative fees.

The appropriate city employees shall charge the following fees for rendering services or providing copies as listed below:

- (1) *Update occupancy permit:* \$10.00 for first update, \$5.00 for each additional update.
- (2) *Copies of ordinances or notices:* \$0.40 per single sided page (plus postage for mailing).
- (3) *Notarial services (for nonresidents):* \$1.00 for each document.
- (4) *Small maps and plans (approximately 11" × 17"):* \$0.80 per page.
- (5) *Large maps and plans (24" × 36"):* \$5.00 per map or plan.

- (6) *Oversize prints*: \$1.00 per square foot.
- (7) *Electronic verification fee*: Persons choosing to pay any fee or other amount due and payable to the City of Black Jack by personal check, credit card or debit card shall be charged a fee of one dollar (\$1.00) to cover the cost of electronic payment verification.
- (8) BOCA and other trade books adopted by the City of Black Jack shall be made available for public review. Such BOCA and other trade books are not for sale.
- (9) All printed materials must be paid in advance by check, money order or cash.

(Ord. No. 278, § 1, 2-1-83; Ord. No. 634, § 1, 6-16-98; Ord. No. 691, § 1, 8-1-00; Ord. No. 716, § 1, 7-17-01; Ord. No. 735, § 1, 11-20-01; Ord. No. 777, § 1, 1-21-03)

Secs. 2-2—2-15. - Reserved.

ARTICLE II. - CITY COUNCIL

DIVISION 1. - GENERALLY

Sec. 2-16. - Wards.

[The four (4) ward boundaries are set forth in Exhibit A, attached to Ordinance No. 1020, on file in the office of the city clerk.]

(Ord. No. 143, § 2, 1-6-76; Ord. No. 726, § 1, 9-4-01; Ord. No. 864, § 1, 6-7-05; Ord. No. 1020, § 1, 8-16-11)

**State Law reference—** Wards required, RSMo. § 77.030.

Sec. 2-17. - Reimbursement of expenses.

- (a) As used in this section the term "expenses" shall refer to expenses actually and necessarily incurred by an employee of the city in performance of the official business of the city.
- (b) The term "employee" shall include all persons employed by the city and all elected and appointed officials of the city.
- (c) The city shall reimburse expenses incurred by its employees subject to the following conditions:
  - (1) Each employee who incurs an expense shall submit to the city clerk of the city a voucher, certified by the employee as being true and correct, showing in detail such expenses and including receipts or other applicable documentation certifying such expenses.
  - (2) The city may authorize cash advances to employees if expenses to be incurred by an employee engaged on city business would impose a financial burden on the employee. Each employee requesting a cash advance shall submit a written statement declaring in detail the amount of the expected expenses and that the expenses would pose a financial burden on the employee. This statement shall also include applicable documentation supporting the amount of the expenses. The city clerk shall review this statement and authorize a cash advance for the proper expenses in accordance with this section. Within ten (10) days after incurring the expense, the employee shall submit a voucher, certified by the employee as being true and correct, showing in detail the expenses actually incurred by the employee and paid receipts or other applicable documentation verifying that the expenses were incurred and paid. If the actual expenses incurred by the employee are more than the cash advance, the city clerk shall reimburse the employee for the difference. If the actual expenses incurred by the employee are less than the cash advance, the employee shall reimburse the city for the difference.

(Ord. No. 533, § 1, 4-5-94; Ord. No. 663, § 1, 10-5-99; Ord. No. 778, § 1, 1-21-03)

Secs. 2-18—2-30. - Reserved.

## DIVISION 2. - RULES OF ORDER AND PROCEDURE<sup>[2]</sup>

*Footnotes:*

— (2) —

**State Law reference**— *Authority of council to provide for its rules, RSMo. § 77.090.*

Sec. 2-31. - Robert's Rules; parliamentarian.

Except as otherwise provided by statute, ordinance or this division, the proceedings of the city council shall be controlled by Robert's Rules of Order, Newly Revised. The mayor, president pro tem or acting president pro tem, as the case may be, shall decide all questions which may arise according to such parliamentary usage, subject to an appeal to the city council.

(Ord. No. 11, Rule 8, 10-17-70; Ord. No. 82, § 2, 11-6-72)

Sec. 2-32. - Council meeting.

Regular meetings of the city council shall be held at the city hall on the first and third Tuesday of each month at the hour of seven thirty (7:30) p.m. except no regular meetings shall be held on the first Tuesday of January nor on the first Tuesday of July. When the regular meeting date falls on a legal holiday or election day, the regular meeting may be held at such time as may be provided on motion at the previous meeting. Special meetings of the city council may be called by the mayor or by a majority of the members of the council. Written notices of special meetings shall be served on the mayor and each member of the city council by a member of the city's designated law enforcement agency, by United States mail, by personal service of a written notice, or by leaving written notice at the member's usual place of business or residence at least forty-eight (48) hours before the time of the meeting. The mayor and the members of the council may individually waive in writing notice for any meeting. A special meeting may, by motion duly passed, be provided for at a regular meeting. Caucus sessions of the council shall be held upon call by the mayor or any two members of the council. Caucus sessions provide for interchange of information and discussion on matters that may be of interest and which may require future legislation. Caucus sessions may be used to discuss pending legislation but no vote may be taken to effect legislation at such meeting, but votes of an administrative or procedural nature may take place at a caucus meeting. All caucus meetings shall be open meetings. "Closed Meetings" not open to the general public shall take place in accordance with RSMo 610.021 (2004), and as it may be amended. The president pro tem or acting president pro tem, as the case may be, may cancel any regularly scheduled meeting of the city council at his/her discretion, provided that (a) there are no items of unfinished business or new business on the agenda for such meeting, (b) notice of such cancellation is provided to the remaining members of the city council no later than twenty-four (24) hours in advance of such meeting, and (c) there shall not, as a result of such cancellation, be less than one (1) regularly scheduled meeting of the city council in each calendar month.

(Ord. No. 908, § 1, 4-17-07; Ord. No. 1056, § 1, 1-21-14)

**Editor's note**— Ord. No. 908, § 1, adopted April 17, 2007, repealed § 2-32, in its entirety and enacted new provisions to read as herein set out. Prior to amendment § 2-32, pertained to regular meetings and derived from Ord. No. 11, Rule 1, adopted Oct. 17, 1970 and Ord. No. 82, § 1, adopted Nov. 6, 1972.

**State Law reference**— Regular meetings, RSMo. § 77.070; procedure required for giving public notice of special meeting, RSMo. § 610.020.

Sec. 2-33. - Reserved.

**Editor's note**— Ord. No. 908, § 1, adopted April 17, 2007, repealed § 2-33, in it's entirety. Former § 2-33, pertained to special meetings and derived from Ord. No. 11, Rule 1, adopted Oct. 17, 1970 and Ord. No. 82, § 1, adopted Nov. 6, 1972.

Sec. 2-34. - Call of roll; calling meeting to order; presiding officer.

At the hour appointed for the meeting, the city clerk, or someone appointed in his absence, shall proceed to call the roll of the members and announce whether or not a quorum be present. Upon the presence of a quorum, the council shall be called to order by the mayor, if present, and if the mayor be absent the president pro tem or in his absence, the acting president pro tem shall call the council to order, and preside during the meeting.

(Ord. No. 11, Rule 2, 10-17-70)

**State Law reference**— Mayor to be president of council, RSMo. § 77.250.

Sec. 2-35. - Order of business.

(a) The city council shall transact the business before it in the following order:

- (1) Acting on unapproved minutes of previous meetings;
- (2) The presentation of petitions, remonstrations, complaints, or requests;
- (3) Reports of mayor and officials;
- (4) Reports of boards and commissions;
- (5) Reports of committees;
- (6) Unfinished business;
- (7) Pending legislation;
- (8) New business;
- (9) Miscellaneous business.

(b) Prior to the initial reading of all ordinance bills, such pending legislation shall be reviewed and discussed by the city council. After such review and discussion, the city council may assign a sponsor to the pending legislation, assign the pending legislation to the appropriate legislative review committee or refer the matter to the city attorney for advice and drafting of bill as the city council deems necessary in order to perfect such pending legislation for passage and approval.

(Ord. No. 11, Rule 4, 10-17-70; Ord. No. 532, § 1, 4-5-94; Ord. No. 552, § 1, 12-20-94)

Sec. 2-36. - Appointment of committees; meetings.

All committees shall be appointed by the mayor unless otherwise specifically directed by the city council.

All commissions, boards and committees of the city shall hold meetings at a place and time and on such date as designated by the chairman of such commissions, boards and committees, or other person appointed or elected as the coordinator of such commissions, boards and committees, and agreed to by a majority of the members of such commissions, boards and committees, at a prior meeting of such commissions, boards and committees, upon giving such notice of the meeting as required by applicable. Absent such designation, the commission, board and committee meetings shall be held at such place and

time and on such date as otherwise provided in the Code. If a majority of the members of any such commissions, boards and committees do not agree with the date, time or place designated at such prior meeting, then such date, time or place of such meeting shall be determined by a vote of the majority of the members of such commissions, boards and committees.

(Ord. No. 11, Rule 5, 10-17-70; Ord. No. 475, § 1, 3-19-91)

Sec. 2-37. - Final adoption of measures on date of introduction.

No bill or ordinance shall be considered for final passage at the same meeting it is introduced, except by two-thirds (2/3) consent of all the members of the city council.

(Ord. No. 11, Rule 7, 10-17-70)

Sec. 2-38. - Suspension, repeal, etc.

This division may be temporarily suspended by unanimous consent by all members of the city council, but it shall not be repealed, altered or amended except by concurrence of two-thirds (2/3) of all the members of the city council, upon thirty (30) days previous notice in writing being given of the motion therefor.

(Ord. No. 11, Rule 9, 10-17-70)

Secs. 2-39—2-50. - Reserved.

ARTICLE III. - FINANCIAL AFFAIRS<sup>[3]</sup>

*Footnotes:*

--- (3) ---

**Cross reference**— *Licenses, taxation and miscellaneous business regulations, Ch. 10.*

**State Law reference**— *Financial administration and indebtedness, RSMo. § 95.01 et seq.*

Sec. 2-51. - Fiscal year.

The fiscal year for the city, and all of its departments and officers, is hereby established as being from July 1 to June 30 of the following year.

(Ord. No. 45, § 1, 8-3-71)

Sec. - 2-52.

Financial affairs.

- (a) In accordance with the provisions of this section, the city may hire an accounting firm to assist the city with accounting and financial management issues and to perform an annual audit of the city's accounts.
- (b) The accounting firm shall advise the city and its officials concerning accounting and financial matters; a representative of the accounting firm may be invited to attend any regular monthly meeting of the city council by the mayor or by at least three members of the city council.
- (c) The accounting firm shall be appointed by the mayor, with the consent of a majority of the members of the city council.
- (d)

The accounting firm shall be paid for its services in accordance with a contract entered into between the city and the accounting firm as negotiated by the mayor and approved by a majority of the city council.

- (e) The accounting and financial affairs of the city shall be handled in the following manner:
- (1) Responsibility for the preparation of all financial statements, including posting, closing, balancing and reconciling all of the city's financial records inclusive of all necessary supporting data in accordance with generally accepted accounting principles shall be the responsibility of the accounting firm.
  - (2) Preparation of semi-annual and annual financial statements for publication as required by state statute shall be the responsibility of the accounting firm.
  - (3) Preparation of quarterly federal and state tax withholding statements, and preparation of W-2, 1099 and other tax filings and reporting statements as required by law shall be the responsibility of the accounting firm.
  - (4) Assisting and consulting with the accounting firm in conjunction with the annual audit shall be the responsibility of the mayor, city clerk, and city treasurer.
  - (5) Preparation and submission of proposed annual city budget, any necessary changes thereto as directed by the mayor and city council, and preparation of the final budget in a form acceptable for approval shall be the responsibility of the mayor, budget committee and city clerk.
  - (6) Responsibility for preparation of other financial reports and miscellaneous reports as required by law or as directed by the mayor.

(Ord. No. 169, §§ 1—4, 5-17-77; Ord. No. 663, §§ 2, 3, 10-5-99)

Sec. 2-53. - Deposits of public funds.

- (a) All public funds of the city shall be deposited in banking institutions as dictated by a majority vote of the city council.
- (b) The banking institutions selected as depositories shall furnish security for such deposits as set forth with particularity in RSMo §§ 110.010 and 30.270, as amended.
- (c) The mayor, on the majority vote of the city council, is authorized to enter into a depository security agreement with any banking institution authorized by the city council.
- (d) Upon default of the securities deposited as collateral under the terms of any depository agreement entered into between any banking institution and the city, the depository agreements shall terminate.
- (e) Any depository security agreement entered into between any banking institution and the city may be terminated by a majority vote of the city council at any regular or special meeting provided the banking institution has been given seven (7) days' notice of the meeting at which such business will be considered by the city council.

(Ord. No. 138, §§ 1—5, 7, 5-20-75; Ord. No. 663, § 4, 10-5-99; Ord. No. 1073, § 1, 5-5-15)

Sec. 2-54. - Municipal budget.

- (a) Copies of the proposed annual budget shall be made available for public inspection in printed or typewritten form in the office of the city clerk during regular business hours for at least five (5) days prior to the city council's vote on the adoption of the annual budget. Prior to final action on the budget, a public hearing regarding the budget shall be held by the city council. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the city at least one (1) week prior to the time of the hearing.

- (b) The annual budget may be revised by a majority vote of the city council by deleting, reducing, adding to or changing budgeted items. No revision of the budget shall be made increasing any expenses in the budget if such increase would cause a deficit in the budget.
  - (c) The city clerk and mayor are authorized to make budget transfers pursuant to the following procedure:
    - (1) No transfer(s) shall be made to and from various budget categories, which transfer(s) total in the aggregate of more than one thousand dollars (\$1,000.00), without prior approval of the city council.
    - (2) Any proposed transfer which would cause such one thousand dollar (\$1,000.00) aggregate limit to be exceeded may be made only with the prior approval of the city council.
    - (3) All transfers between budget categories must be described in the monthly budget report provided to the city council.
    - (4) No transfers from contingency accounts shall be made without the prior approval of the city council.
  - (d) It shall be the responsibility of the accounting firm to prepare a monthly budget report, which shall include an estimate of revenues, expenditures, and transfers from contingency accounts. The budget report shall be submitted to the city council at least monthly.
  - (e) As soon as practicable after the close of each fiscal year, but no later than six (6) months thereafter, there shall be an audit of all accounts of the city conducted by an independent auditor.
- (Ord. No. 547, 10-4-94; Ord. No. 663, §§ 5, 6, 10-5-99)

Sec. 2-55. - Financial and investment policy for the city.

- (a) *Fiscal year.* The fiscal year of the city, and all of its departments and officers, is hereby established as being from July 1 to June 30 of the following year.
- (b) *Budget.* The budget shall provide a complete financial plan of all city funds and activities for the ensuing fiscal year and, except as required by law or this article, shall be in such form as the mayor deems desirable or the city council may require. The budget shall indicate in separate sections:
  - (1) Proposed expenditures for current operations during the ensuing fiscal year and the method of financing such expenditures;
  - (2) Proposed capital expenditures during the ensuing fiscal year and the proposed method of financing each such capital expenditure;
  - (3) In no event shall the total proposed expenditures from any fund exceed the estimated revenues to be received by that fund plus any unencumbered balance or less any deficit estimated for the beginning of the budget year. Nothing herein shall be construed as requiring the city to use any cash balance as current revenue, or to change from a cash basis of financing its expenditures; and
  - (4) Preparation and submission of proposed annual city budget, any necessary changes thereto as directed by the mayor and city council, and preparation of the final budget in a form acceptable for approval shall be the responsibility of the mayor, budget committee and administration and finance manager.
- (c) *Capital improvement program.* The capital improvement program shall include:
  - (1) A clear general summary of the contents;
  - (2) A list of all capital improvements proposed to be undertaken during the five (5) fiscal years next ensuing, with appropriate supporting information as to the necessity for such improvements;

- (3) A cost estimate, a method of financing and a recommended time schedule for each such improvement;
- (4) The estimated annual cost of operating and maintaining the facilities to be constructed or acquired; and
- (5) A recommendation from the committee to the city council.

The above information shall be revised and extended each year with regard to the capital improvements still pending or in process of construction or acquisition.

- (d) *Submission of budget and capital improvement program.* Copies of the proposed annual budget shall be made available for public inspection in printed or typewritten form in the office of the city clerk during regular business hours for at least five (5) days prior to the city council's vote on the adoption of the annual budget. Prior to final action on the budget, a public hearing regarding the budget shall be held by the city council. Notice of the public hearing shall be given by publication in a newspaper of general circulation in the city at least one (1) week prior to the time of the hearing.
- (e) *Adoption of budget and capital improvement program.*
  - (1) After the public hearing, the city council may approve the budget and capital improvement program with or without amendment. In amending the budget and/or the capital improvement program, the city council may add or decrease programs or amounts, except expenditures required by law or for debt service.
  - (2) The budget and the capital improvement program shall be adopted by motion/resolution on or before the last day of the fiscal year currently ending. If the budget is not adopted by this date, the amounts appropriated for current operation for the current fiscal year shall be deemed adopted for the ensuing fiscal year on a month-to-month basis, with all items in it prorated accordingly, until such time as the city council adopts a budget for the ensuing fiscal year. Adoption of the budget shall constitute appropriation of the amounts specified therein as expenditures from the funds indicated.
- (f) *Public record.* Copies of the budget and capital improvement program as adopted shall be public records and shall be made available to the public at city hall and other suitable places in the city.
- (g) *Amendment after adoption.* The annual budget may be revised by a majority vote of the city council by deleting, reducing, adding to or changing budgeted items. No revision of the budget shall be made increasing any expenses in the budget if such increase would cause a deficit in the budget.
  - (1) The administration and finance manager and mayor are authorized to make budget transfers pursuant to the following procedures:
    - a. No transfer(s) shall be made to and from various budget categories, which transfer(s) total in the aggregate more than one thousand dollars (\$1,000.00), without prior approval of the city council;
    - b. Any proposed transfer which would cause such one thousand dollar (\$1,000.00) aggregate limit to be exceeded may be made only with the prior approval of the city council;
    - c. All transfers between budget categories must be described in the monthly budget report provided to the city council; and
    - d. No transfers from contingency accounts shall be made without the prior approval of the city council.
  - (2)

Supplemental appropriation. If during the fiscal year the finance manager certifies that there are available for appropriation revenues in excess of those estimated in the budget, the city council by a majority vote and resolution may make supplemental appropriation for the year up to the amount of such excess.

- (3) Reduction of appropriation. If at any time during the fiscal year it appears probable to the mayor that the revenues available will be insufficient to meet the amount appropriated, the finance manager shall report to the city council without delay, indicating the estimated amount of the deficit, any remedial action taken and recommendations as to any other steps to be taken. The city council shall then take such further action as it deems necessary to prevent or minimize any deficit, and for that purpose it may by resolution reduce one (1) or more appropriations.
- (4) Transfer of appropriations. At any time during the fiscal year, the mayor, with the approval of the city council, may transfer part or all of any unencumbered appropriation balance among departments within a fund and, upon written request by the administration and finance manager, the city council may by resolution transfer part or all of any unencumbered appropriations balance from one fund to another.
- (h) *Taxation powers.* Taxes shall be levied by ordinance in accordance with law.
- (i) *Sale of bonds.* The city shall be authorized to sell any bonds as may now or hereafter be authorized by law. Bonds sold by the city may be sold at private or public sale as authorized by law. In the event such bonds are to be sold at public sale, the same shall be sold upon sealed proposals after reasonable public notice has been given as provided by ordinance or otherwise by law. Any public sale shall be conducted according to such terms and conditions as may be provided by ordinance.
- (j) *Investment.* The investment objective of the city shall be the safety of the principal and each investment shall seek first to insure that capital losses are avoided, whether from securities default or erosion of market value.
  - (1) All public funds of the city shall be deposited in FDIC insured financial institutions as directed by a majority vote of the city council.
  - (2) The FDIC insured financial institutions selected as depositories shall furnish security for such deposits as set forth with particularity in RSMo §§ 110.010 and 30.270, as amended.
  - (3) The mayor, by the majority vote of the city council, is authorized to enter into a depository security agreement with any financial institutions authorized by the city council.
  - (4) Upon default of the securities deposited as collateral under the terms of any depository agreement entered into between any financial institutions and the city, the depository agreements shall terminate.
  - (5) Any depository security agreement entered into between any financial institutions and the city may be terminated by a majority vote of the city council at any regular or special meeting provided the financial institutions has been given seven (7) days' notice of the meeting at which such business will be considered by the city council.
  - (6) The administration and finance manager, with the approval of the mayor, shall have the power to transfer of funds between interest bearing or passbook accounts and non-interest bearing or checking accounts as shall be deemed necessary to maximize interest income to the city while maintaining prudent cash reserves for city disbursements.
  - (7) The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
  - (8)

The investment portfolio shall be designed with the objective of obtaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objective described above. The core of investments are limited to relatively low-risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall not be sold prior to maturity without the approval of a majority of the members of the city council and the following exception:

- (9) The liquidity needs of the portfolio require that the security be sold.
- (k) *Annual audit.* As soon as practicable after the close of each fiscal year, but no later than six (6) months thereafter, there shall be an audit of all accounts of the city conducted by an independent auditor.
  - (1) In accordance with the provisions of this section, the city may hire an accounting firm to assist the city with accounting and financial management issues and to perform an annual audit of the city's accounts.
  - (2) The accounting firm shall advise the city and its officials concerning accounting and financial matters; a representative of the accounting firm may be invited to attend any regular monthly meeting of the city council by the mayor or by at least three (3) members of the city council.
  - (3) The accounting firm shall be appointed by the mayor, with the consent of a majority of the members of the city council.
  - (4) The accounting firm shall be paid for its services in accordance with a contract entered into between the city and the accounting firm as negotiated by the mayor and approved by a majority of the city council.
  - (5) Assisting and consulting with the accounting firm in conjunction with the annual audit shall be the responsibility of the mayor, city clerk, administration and finance manager and city treasurer.
  - (6) A copy shall be kept in the city clerk's office and shall be open to public inspection.
  - (7) No certified public accountant or firm shall conduct the audit for more than four (4) consecutive years without competitive rebidding.
- (l) *Fiscal reports/financial affairs.* The accounting and financial affairs of the city shall be handled in the following manner:
  - (1) Responsibility for the preparation of all financial statements, including posting, closing, balancing and reconciling all of the city's financial records inclusive of all necessary supporting data in accordance with generally accepted accounting principles shall be the responsibility of the accounting firm.
  - (2) It shall be the responsibility of the accounting firm to prepare a monthly budget report, which shall include an estimate of revenues, expenditures, and transfers from contingency accounts. The budget report shall be submitted to the city council at least monthly.
  - (3) Preparation of semi-annual and annual financial statements for publication as required by state statute shall be the responsibility of the accounting firm.
  - (4) Preparation of quarterly federal and state tax withholding statements, and preparation of W-2, 1099 and other tax filings and reporting statements as required by law shall be the responsibility of the accounting firm.
  - (5) Responsibility for preparation of other financial reports and miscellaneous reports as required by law or as directed by the mayor.
  - (6)

Report to public. A fiscal report shall be published semi-annually in one (1) or more newspapers or publications of general circulation in the city as required by state statute.

- (7) Report to city council. A current fiscal report shall be provided quarterly, or more frequently if required by ordinance, to each member of the city council. The fiscal reports shall include actual revenue and expenditures compared to budgeted amounts, including posting, closing, balancing and reconciling all of the city's financial records inclusive of all necessary supporting data in accordance with generally accepted accounting principals which shall be the responsibility of the accounting firm.
- (8) Preparation of quarterly federal and state tax withholding statements, and preparation of W-2, 1099 and other tax filings and reporting statements as required by law shall be the responsibility of the accounting firm.
- (m) *Fiscal policy.* It shall and be the fiscal policy of the city to conserve public moneys while efficiently providing municipal services or infrastructure, to operate the city with a minimum of bureaucracy, and to provide government services by contract with private providers when feasible and appropriate. The city should consider the viability, quality, and cost effectiveness of contracting for all new major services prior to providing such services directly by city employees, provided no ordinance may be invalidated based upon failure to comply with this provision.

(Ord. No. 920, § 1(Exh. A), 10-2-07)

#### Sec. 2-56. - Duties and obligations of treasurer.

It shall be the duty of the city treasurer, upon the presentation to him of any check drawn upon the city depository in favor of the duly certified payee to sign the check on behalf of the city. The preparer of a check shall not be a signatory on the check on behalf of the city. The treasurer shall, also, perform such other duties as may be assigned by the mayor.

(Ord. No. 1059, § 1, 8-5-14)

#### Sec. 2-57. - Bond requirements.

In accordance with state law, the treasurer shall, within fifteen (15) days after his election or appointment, and before entering upon the discharge of the duties of his office, give bond to the city in the amount of one hundred thousand dollars (\$100,000.00) which shall be secured by a corporate surety. The bond, after having been approved by the mayor and the city council, shall be filed with the city clerk for safekeeping. If any person elected or appointed to the office of treasurer shall fail to give bond as herein required, his office shall be deemed vacant.

(Ord. No. 1059, § 2, 8-5-14)

#### Sec. 2-58. - Payment for the bond.

The bond for the treasurer shall be obtained from the city's current insurance broker and shall be paid for by the city. The city is only obligated to pay for the bond if it can be obtained at normal rates.

(Ord. No. 1059, § 3, 8-5-14)

#### Secs. 2-59—2-70. - Reserved.

### ARTICLE IV. - OFFICERS AND EMPLOYEES IN GENERAL<sup>[4]</sup>

Footnotes:

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## DIVISION 1. - GENERALLY

### Sec. 2-71. - Social security.

- (a) It is hereby declared to be the policy and purpose of the city to extend to all eligible employees and officials of the city who are not excluded by law or by this section, and whether employed in connection with a governmental or proprietary function of the city, the benefits of the system of federal old-age and survivors insurance, as authorized by the Social Security Act Amendments of 1950, and by state law, as the same may be now and hereafter in effect.
- (b) The mayor and the city clerk are hereby authorized and directed, on behalf of this city, to prepare, execute and submit to the division of budget and comptroller of the state, as state agency, a plan and agreement for extending said benefits to said eligible employees and officials of the city, in the form prepared by the state agency and hereby approved and adopted by the city council, which plan and agreement are to become effective upon approval thereof by the state agency, and are further authorized and directed to execute agreements and modifications and amendments thereof with said state agency, providing for the extension of said benefits to said employees and officials as set forth in said plan and agreement, as provided for in subsection (a) hereof, said plan and agreement to provide that said extension of benefits is to be effective on July 1, 1971.
- (c) Commencing on the first day of the month following the date of the approval of the plan and agreement of this city by the state agency, there shall be deducted from the wages of all employees and officials of the city, to whom the benefits of said system of federal old-age and survivors insurance are extended, by virtue of the plan and agreement hereinbefore provided for, the amount of each of said employees' and officials' contributions, as determined by the applicable state and federal laws and by said plan and agreement, the aggregate amount of said deductions to be paid into the contributions fund created by state law; provided, however, that from the first payment of wages made to each of said employees and officials after the benefits of said system have been extended to such employees and officials, there shall be deducted a sum equal to the amount which would have been due and payable from each of said employees and officials had said extension of benefits been provided and effective on July 1, 1971.
- (d) Commencing on the 1st day of the month following the date of the approval of the plan and agreement of this city by the state agency, there is hereby authorized to be appropriated from the general revenue fund of the city and there is, and shall be, appropriated, the sums of money necessary to pay the contributions of the city, which shall be due and payable by virtue of the extension of the benefits of the federal old-age and survivors insurance system to the eligible employees and officials of said city, said sums of money to be paid into the contributions fund created by state law; provided, however, that in making the first payment to said contributions fund, after the benefits of said system have been extended to such employees and officials, said first payment shall include a sum equal to the amount which would have been due and payable had said extension of benefits been provided and effective on July 1, 1971. The fund from which said appropriation is made will, at all times, be sufficient to pay the contributions of the city by this subsection directed to be paid to said contributions fund.
- (e)

The city, from and after the approval of the plan and agreement of this city by the state agency, shall fully comply with, and shall keep such records, and make such reports and provide such methods of administration of said plan and agreement as may be required by all applicable state and federal laws, rules and regulations, now and hereafter in effect with respect to the extension of the benefits of the federal old-age and survivors insurance system to the employees and officials of this city. For the purpose of administering said plan and agreement the city clerk shall be the official who shall make all required reports, keep all records, and be responsible for the administration of said plan and agreement on behalf of this city and any and all notices and communications from the state agency to this city with respect to said plan and agreement shall be addressed to" \_\_\_\_\_, City Clerk, City of Black Jack, 4655, Parker Road, Black Jack, Missouri 63033."

(Ord. No. 85, §§ 1—5, 11-21-72)

**State Law reference—** Old age and survivors insurance, RSMo. 105.300—105.440; authority for municipal agreements, RSMo. 105.530.

Sec. 2-72. - City prosecuting attorney.

- (a) There is hereby created the position of city prosecuting attorney. The city prosecuting attorney shall serve until he is discharged by the mayor with the approval of the city council or by the city council on its own motion.
- (b) The city prosecuting attorney shall prosecute and defend all cases in the municipal court on behalf of the city.
- (c) The city prosecuting attorney shall perform such of the following duties as may, from time to time, be so directed or requested by the mayor, with the approval of the city council, or the city council on its own motion:
  - (1) Advise the mayor, the city council and any other officers of the city in all legal matters with respect to said city under general laws and ordinances.
  - (2) Appear on behalf of the city at public hearings for the city, and before any boards or committees of the city.
  - (3) Prosecute and defend all cases in any court on behalf of the city, other than the municipal court, and assist, cooperate and consult with any other legal counsel, elected or special, as may take office or be otherwise appointed, employed, or retained by the city, in any legal affairs or duties as may be requested or directed.
- (d) The city prosecuting attorney shall receive as compensation for his services in connection with the matters set forth in subsections (b) and (c) the sum established by ordinance. Such attorney shall bill the city at least every two (2) months for his services.
- (e) The city prosecuting attorney shall be compensated for legal services which he may be required to perform on behalf of the city in research of special problems not usually and ordinarily encountered, and in other matters not specified in subsections (a) and (b) hereof, by a reasonable fee to be fixed, prior to the performance of such services, by resolution of the city council.

(Ord. No. 155, §§ 1—5, 8-18-76)

**State Law reference—** Appointment of officers, RSMo. § 77.330.

**Cross reference—** Municipal court, Ch. 12.

Sec. 2-73. - Special counsel.

- (a) There is hereby created the position of special counsel.

- (b) The special counsel shall advise the mayor, the city council, any of the members of the city council, and any of the officials of the city, upon all legal matters and problems connected with their duties, and the administration of the affairs of the city; he shall attend the regular monthly meeting of the city council, unless excused by the mayor, but shall not be required to remain at any of said meetings after 11:00 p.m.
- (c) The special counsel shall also draft and prepare ordinances, resolutions, contracts and other legal documents for and in behalf of the city, its officers, and the administration of the city.
- (d) The special counsel shall receive as and for his compensation for all the foregoing services, the sum of two hundred fifty dollars (\$250.00) per month.
- (e) In addition to his monthly salary, the special counsel shall be paid additional fees, according to agreement made with the city council in each instance, for all ordinances, resolutions, contracts and other documents which require special research or drafting, and also for all bond issues, and for all resolutions and procedures extending the boundaries of the city; likewise the above described monthly compensation shall not be considered as covering legal services which may be performed in representing the city in state or federal courts or before any state or county board, committee or commission, for which services additional fees shall be paid when said work is performed by lawful order of the mayor or by lawful order of the city council.

(Ord. No. 3, §§ 1, 3—6, 8-7-70)

**State Law reference—** Appointment of officers, RSMo. § 77.330.

Sec. 2-74. - Public relations director.

There is hereby created the position of public relations director. The public relations director shall be appointed by the city administrator, with the final approval of the mayor and a majority of the members of the city council, and shall be considered a salaried employee, exempt in accordance with paragraph VII(c) of the city personnel manual, with a monthly salary fixed by ordinance. The public relations director shall be subject to the supervision of the city administrator. The public relations director may be removed from office at will by the recommendation of the city administrator, with the approval of the mayor and upon a two-thirds (2/3) vote of all the members of the city council. The public relations director shall have the following duties and responsibilities:

- (1) To routinely produce public access programming for the city to include program scheduling and public relations regarding public access programming within approved budgetary limits.

(Ord. No. 497, § 2, 11-17-92; Ord. No. 750, § 1, 5-21-02)

**Editor's note—** Inclusion of § 2 of Ord. No. 497, adopted Nov. 17, 1992, as § 2-74 herein was at the editor's discretion. Ordinance No. 250, which provided for CATV franchise regulations and was adopted May 5, 1981, has not been included in this Code but is on file and available for inspection in the office of the city clerk.

**Cross reference—** Franchises, App. A.

Sec. 2-75. - Collector for the city shall be an appointed position.

Pursuant to Section 77.370.5 RSMo. (1998), the office of collector for the City of Black Jack is hereby established to be an appointed position effective as of the expiration of the incumbent collector's term of office and that, thereafter, no election shall be had to fill the office of collector. The collector shall be appointed by the mayor with the consent of a majority of the city council by ordinance or resolution. The

term of office for the collector shall be four (4) years, but the mayor may, with the consent of a majority of all the members elected to the city council, remove the collector from office at will, and the collector may be so removed by a two-thirds (2/3) vote of all the members elected to the city council, independently of the mayor's approval or recommendation.

(Ord. No. 707, § 1, 2-20-01; Ord. No. 711, § 1, 4-3-01)

Secs. 2-76—2-85. - Reserved.

DIVISION 2. - CITY CLERK<sup>[5]</sup>

*Footnotes:*

— (5) —

**State Law reference—** *City clerk generally, RSMo. §§ 77.410, 77.420.*

Sec. 2-86. - Position created; residency requirements.

There is hereby created the position of city clerk.

(Ord. No. 37, § 1, 6-1-71; Ord. No. 420, § I, 6-20-89)

**State Law reference—** Appointment of officers, RSMo. § 77.330.

Sec. 2-86.1. - Appointment; term.

The city clerk shall be recommended for appointment by the mayor, subject to final approval by a majority of the members of the city council and shall be considered a full-time employee compensated on an hourly basis at a per hour rate fixed by ordinance. The city clerk job description shall be established by the personnel policy committee. The city clerk shall be subject to the supervision of the mayor. The city clerk may be removed from office at will by the mayor and upon a two-thirds (2/3) vote of all of the members of the city council.

(Ord. No. 420, § II, 6-20-89; Ord. No. 503, § 1, 2-2-93; Ord. No. 524, § 1, 1-4-94; Ord. No. 747, § 1, 5-7-02; Ord. No. 784, § 1, 3-4-03; Ord. No. 784, § 1, 3-4-03)

Sec. 2-87. - Duties generally.

The duties of the city clerk shall be as follows:

- (1) To have charge and custody of the seal, ordinances and other records, papers and documents entrusted to his care and keeping by the city council, mayor or other officials;
- (2) To attend to such correspondence as may be required;
- (3) To keep the journal of the proceedings of the city council and to enter therein the yeas and nays of the members on each bill presented for passage as an ordinance;
- (4) To attest each ordinance passed by subscribing his name on the face thereof; to issue and attest all warrants ordered by the council; and
- (5) In general, to perform such other duties as may be prescribed by law or ordinance or as directed by the mayor or city council.

(Ord. No. 37, § 2, 6-1-71)

**State Law reference—** Duties of clerk, RSMo. § 77.410.

Sec. 2-88. - Procuring property assessment.

The city clerk shall have charge of procuring a lawful and proper assessment of property within the city for purposes of providing revenue for city purposes in the manner herein provided. It shall be his duty, on or before the first day of June of each year, to see that there is procured from the clerk of the county court and that the same be immediately transmitted to the city council, a certified abstract from the county assessment books, as corrected by the county board of equalization of all property within the city made taxable by law, which abstract shall by the city council be accepted, taken and considered as the lawful and proper assessment on which to levy and collect the taxes of the city. Upon receipt of such abstract, the city council shall by ordinance establish the rate of taxes for the year within constitutional limits.

(Ord. No. 37, § 3, 6-1-71)

**Editor's note**— Section 1 of Ord. No. 319, adopted Oct. 16, 1984, reads as follows:

il=20q "Pursuant to Section 77.370(3) RSMo., the office of City Assessor is hereby abolished at the expiration of the incumbent's term and that, thereafter no election shall be had within the City of Black Jack to fill the office; except that in the event the contract between the City of Black Jack and the County of St. Louis for assessment of property expires and, for any reason, is not renewed, the City Council may by ordinance provide for the election of such officer at municipal election."

Sec. 2-89. - Record of hours worked.

The city clerk shall submit a monthly time record to the mayor stating the number of hours worked at the city hall. In the event the city clerk performs any projects or work on behalf of the city in any place other than the city hall, the city clerk shall describe such projects or work on the time record and shall specifically designate the project or place other than city hall where the work was performed and the hours worked.

(Ord. No. 110, § 3, 1-15-74; Ord. No. 747, § 2, 5-7-02; Ord. No. 784, § 2, 3-4-03)

Secs. 2-90—2-91. - Reserved.

**Editor's note**— Ord. No. 753, § 1, adopted May 21, 2002, repealed former sections 2-90 and 2-91 in their entirety which pertained to an assistant to the city clerk. Former section 2-90 derived from Ord. No. 83, § 3, 11-6-72; Ord. No. 524, § 2, 1-4-94. Former section 2-91 derived from Ord. No. 646, § 1, 11-17-98.

Secs. 2-92—2-105. - Reserved.

DIVISION 3. - DIRECTOR OF PUBLIC WORKS

Sec. 2-106. - Office created.

There is hereby created the office of director of public works of the city.

(Ord. No. 9, § 1, 10-12-70)

Sec. 2-107. - Appointment; term.

The director of public works shall be appointed by the city administrator, with the final approval of the mayor and a majority of the members of the city council, and shall be considered a salaried employee, exempt in accordance with paragraph VII(c) of the city personnel manual, with a monthly salary fixed by ordinance. The director of public works shall be subject to the supervision of the city administrator. The

director of public works may be removed from office at will by the recommendation of the city administrator, with the approval of the mayor and upon a two-thirds (2/3) vote of all the members of the city council.

(Ord. No. 9, § 2, 10-12-70; Ord. No. 429, § 1, 9-5-89; Ord. No. 752, § 1, 5-21-02)

**State Law reference—** Appointment of officers, RSMo. § 77.330.

Sec. 2-108. - Oath and bond.

The director of public works before rendering upon the duties of the office shall take the oath of office required of other city officers and shall be bondable for a bond in the sum of ten thousand dollars (\$10,000.00) issued by some surety company authorized to issue surety and fidelity bonds in the state, to be approved by the mayor, and conditioned upon the faithful performance of the duties of the office, and that he/she will account for and pay over to the proper officers of the city all monies or other property coming into his/her possession and belonging to the city and he/she will not during the term of his/her office have any interest in any contract made with the city for public works of any character.

(Ord. No. 9, § 4, 10-12-70; Ord. No. 10, § 1, 10-12-70; Ord. No. 429, § 2, 9-5-89)

**State Law reference—** Official oaths and bonds, RSMo. § 77.390.

Sec. 2-109. - Duties.

The duties of the director of public works shall be as follows:

- (1) Designing, construction, reconstruction, repair, maintenance and supervision of all municipal buildings, structures, facilities and properties.
- (2) Lighting of public streets and ways; the laying of conduits, the location and construction of poles and all other structures in, on or over public streets and ways; the granting of all permits to excavate upon public streets and properties or to make any special use thereof.
- (3) Construction, reconstruction, repair and maintenance of all public streets, sidewalks and other public ways.
- (4) Collection and disposal of garbage and other refuse, or the supervision of such collection is provided for under contract.
- (5) Issuance and revocation of all building permits and the administration of the building code and zoning ordinance.
- (6) Issuance of plumbing, electrical and all other construction permits and the inspection of gas, plumbing, electrical wiring, heating installations and safety equipment in all buildings and structures within the city; the inspection of weights and measures and such other inspectional duties as may be prescribed by ordinance.
- (7) Operation of any city garage and all city maintenance and repair equipment.
- (8) Making and keeping of all necessary plats, surveys and drawings and the preparation of all estimates and reports relating to public works as may be required by the mayor or the council.
- (9) Operation of the water plants and all facilities for the acquisition and distribution of water and all other utilities which the city may operate; the administration of all regulations prescribed by the council governing the furnishing of water and other utility services operated by the city; the making and keeping of all records of the location, depth and connection of all underground structures, pipes, conduits and equipment.

(10) Verification that signs installed pursuant to Chapter 10, Section 10-26 and Chapter 11, Section 11-86 comply with the Code of Ordinances and, if not, to pursue enforcement of the requirements of the Code.

(11) Any other task that is assigned by the mayor or his designee.

(Ord. No. 9, § 5, 10-12-70; Ord. No. 504, § 1, 2-16-93)

**Cross reference**— Buildings and building regulations, Ch. 6; weights and measures, § 10-1; planning and development, Ch. 16; solid waste, Ch. 18; streets and sidewalks, Ch. 19.

Secs. 2-110—2-115. - Reserved.

DIVISION 4. - CODE ENFORCEMENT OFFICER<sup>[6]</sup>

*Footnotes:*

--- (6) ---

**Editor's note**—Ord. No. 370, adopted Nov. 4, 1986, did not specifically amend this Code; hence, inclusion of §§ 1—9 of said ordinance herein as Div. 4, §§ 2-116—2-124 was at the discretion of the editor. Section 1 of Ord. No. 519, adopted Sep. 21, 1993, replaced "special investigator" with the term "code enforcement officer."

**Cross reference**— Director of public works, § 2-106 et seq.; buildings and building regulations, Ch. 6; zoning, App. C.

Sec. 2-116. - Purpose.

The purpose of this division [Ordinance Number 370] is to establish the office of code enforcement officer; describe the powers and duties of the code enforcement officer; establish the qualifications, method of appointment, length of appointment and method of removal from office.

(Ord. No. 370, § 1, 11-4-86; Ord. No. 519, § 1, 9-21-93)

Sec. 2-117. - Establishment of position.

The office of code enforcement officer is hereby established.

(Ord. No. 370, § 2, 11-4-86; Ord. No. 519, § 1, 9-21-93; Ord. No. 748, § 1, 5-21-02)

Sec. 2-118. - Powers and duties.

The code enforcement officer shall:

- (1) Make inspections, prepare necessary documentation, and prepare notices of violations, when appropriate to enforce ordinances, or resolutions for which the director of public works is the enforcement officer or which ordinances or resolutions are zoning oriented and which the director of public works has specifically delegated the duty of carrying out inspections to enforce said ordinances and resolutions to the special investigator.
- (2) Patrol the city, when directed by the director of public works, to look for possible violations of the ordinances or resolutions described in section 2-118(1) of this division.
- (3) Be available to testify in the court on any case in which the code enforcement officer has participated.
- (4) Make written semi-monthly reports of work in progress and completed assignments to the mayor, members of the city council, city clerk and city marshal, via the director of public works.
- (5) Attend staff meetings with the mayor and other city officials when requested.

(Ord. No. 370, § 3, 11-4-86; Ord. No. 519, § 1, 9-21-93; Ord. No. 620, 8-5-97)

Sec. 2-119. - Appointment; term.

The code enforcement officer shall be appointed by the mayor or his designee and shall be a full-time employee compensated on an hourly basis at a per-hour rate fixed by ordinance. The code enforcement officer shall be subject to the supervision of the mayor or his designee. The code enforcement officer may be removed from office at will by the mayor or his designee.

(Ord. No. 370, § 4, 11-4-86; Ord. No. 512, § 1, 6-8-93; Ord. No. 519, § 1, 9-21-93; Ord. No. 626, § 1, 10-7-97; Ord. No. 748, § 2, 5-21-02; Ord. No. 994, § 1, 4-6-10)

Sec. 2-120. - Qualifications.

The code enforcement officer shall have an employment and educational background that is conducive to the efficient and timely execution of his/her duties.

(Ord. No. 370, § 5, 11-4-86; Ord. No. 519, § 1, 9-21-93)

Sec. 2-121. - Reserved.

**Editor's note**— Ord. No. 620, adopted Aug. 5, 1997, deleted former § 2-121 of the Code, which pertained to term of office and derived from Ord. No. 370, § 6, adopted Nov. 4, 1986.

Secs. 2-122, 2-123. - Reserved.

**Editor's note**— Ord. No. 748, §§ 2, 3, adopted May 21, 2002, repealed former section 2-122, 2-123 in their entirety. Former section 2-122 pertained a method of removal of the code enforcement officer and derived from Ord. No. 370, § 7, 11-4-86; Ord. No. 519, § 1, 9-21-93; Ord. No. 620, 8-5-97. Former section 2-123 pertained to compensation of the code enforcement officer and derived from Ord. No. 370, § 8, 11-4-86; Ord. No. 519, § 1, 9-21-93; Ord. No. 620, 8-5-97; Ord. No. 653, § 1, 4-20-99; Ord. No. 675, § 1, 2-15-2000.

Sec. 2-124. - Expenses.

Authorized expenses incurred in the performance of the code enforcement officer's duties shall be charged to the Maintenance Worker Salary and Wages Budget.

(Ord. No. 370, § 9, 11-4-86; Ord. No. 519, § 1, 9-21-93)

## DIVISION 5. - BUILDING INSPECTOR<sup>[7]</sup>

*Footnotes:*

— (7) —

**Cross reference**— *Director of public works, § 2-106 et seq.; code enforcement officer, § 2-116 et seq.; buildings and building regulations, Ch. 6; zoning, App. C.*

Sec. 2-125. - Establishment of position.

The office of building inspector is hereby established.

(Ord. No. 550, § 1, 11-15-94; Ord. No. 749, § 1, 5-21-02)

Sec. 2-126. - Powers and duties.

The building inspector shall have the following powers and duties:

(1)

To make inspections, prepare necessary documentation, and prepare notices of violations, when appropriate to enforce ordinances, or resolutions for which the director of public works is the enforcement officer or which ordinances or resolutions are zoning-oriented and which the director of public works has specifically delegated the duty of carrying out inspections to enforce said ordinances and resolutions to the building inspector.

- (2) To patrol the city, when directed by the director of public works, to look for possible violations of the ordinances or resolutions described in this division.
- (3) To make inspections to determine whether dwellings, dwelling units, room units, accessory structures and premises located in the city conform to Article V through Article VIII of the housing code.
- (4) To be available to testify in court on any matter in which the building inspector has participated.
- (5) To make written monthly status reports of work assignments to the mayor, city council, city clerk and city marshal via the director of public works.
- (6) To attend staff meetings with the mayor and other city officials upon request.
- (7) To perform such other duties as may be prescribed by law or ordinance or as directed by the mayor or director of public works.
- (8) To perform the duties of the code enforcement officer described in the Code of Ordinances.

(Ord. No. 550, § 1, 11-15-94)

Sec. 2-127. - Appointment; term.

The building inspector shall be appointed by the mayor or his designee and shall be a full-time employee compensated on an hourly basis at a per-hour rate fixed by ordinance. The building inspector shall be subject to the supervision of the mayor or his designee. The building inspector may be removed from office at will by the mayor or his designee.

(Ord. No. 550, § 1, 11-15-94; Ord. No. 749, § 2, 5-21-02; Ord. No. 994, § 2, 4-6-10)

Sec. 2-128. - Reserved.

**Editor's note**— Ord. No. 749, § 3, adopted May 21, 2002, repealed former section 2-128 in its entirety which pertained to a method of removal of the building inspector and derived from Ord. No. 550, § 1, 11-15-94; Ord. No. 642, § 1, 11-17-98.

Sec. 2-129. - Qualifications.

The building inspector shall have an employment and educational background that is conducive and relevant to the efficient and timely execution of the powers and duties of the office of building inspector.

(Ord. No. 550, § 1, 11-15-94)

Sec. 2-130. - Reserved.

**Editor's note**— Ord. No. 749, § 4, adopted May 21, 2002, repealed former section 2-130 in its entirety which pertained to compensation of the building inspector and derived from Ord. No. 550, § 1, 11-15-94; Ord. No. 605, § 1, 2-18-97; Ord. No. 674, § 1, 2-15-00.

DIVISION 6. - CITY ADMINISTRATOR

Sec. 2-131. - Appointment.

The city administrator shall be appointed at the recommendation of the mayor with the consent of a majority vote of the city council. The city administrator shall serve at the pleasure of the appointing authority pursuant to Section 77.044 RSMo. The appointment may be for an indefinite term of office.

(Ord. No. 724, § 2, 9-4-01)

Sec. 2-132. - Office; full-time position.

- (a) The office of city administrator shall be a full-time salaried position, and the city administrator shall devote full time to the performance of the duties of the office. The city administrator shall not hold outside employment for remuneration except with the approval and consent of the mayor and the city council.
- (b) The city administrator shall be afforded all of the benefits that are set forth in the city's personnel code.

(Ord. No. 724, § 2, 9-4-01)

Sec. 2-133. - Employment and qualifications.

- (a) The city administrator shall meet the minimum qualifications as set forth in Section 77.044 RSMo., as amended.
- (b) It is desirable that the city administrator shall possess the skills, experience and education as described in the adopted job description for this position.

(Ord. No. 724, § 2, 9-4-01)

Sec. 2-134. - Powers and duties.

- (a) The city administrator shall have duties and powers as authorized by Section 77.042 RSMo. as amended by this article. The city administrator shall be the chief administrative assistant to the mayor and shall have general superintending control over the administration and management of government business, officers and employees of the city, subject to the direction and supervision of the mayor.
- (b) In addition to the general authority stated in subsection (a) above, the city administrator shall have the following duties:
  - (1) *Purchasing.* The city administrator shall be the purchasing agent for the city and shall direct and supervise all purchases amounting to less than five hundred dollars (\$500.00) and all such purchases shall be made in accordance with purchasing rules and procedures approved by the city council.
  - (2) *Budget.* The city administrator shall be the budget officer of the city and shall assemble estimates of the financial needs and resources of the city for each ensuing year and shall prepare a program of activities within the financial power of the city, embodying it in a budget document with proper supporting schedules and an analysis to be proposed to the mayor and city council for their final approval.
  - (3) *Financial reports.* The city administrator shall make monthly reports to the mayor and city council relative to the financial condition of the city. Such reports shall show the financial condition of the city in relation to the budget.
  - (4) *Annual report.* The city administrator shall prepare and present to the mayor and city council an annual report of the city's affairs, including in such a report a summary of reports of department heads and such other reports as the mayor and city council may require.

(5)

*Policy formulation.* The city administrator shall recommend to the mayor and city council adoption of such measures as are deemed necessary or expedient for the health, safety or welfare of the city or for the improvement of administrative services for the city.

- (6) *City council agenda.* The city administrator shall submit to the mayor and city council a proposed agenda for each city council meeting at least forty-eight (48) hours before the time of the meeting. The city administrator shall comply with all obligations of the office under the Open Meetings Law, Chapter 610 of the RSMo.
  - (7) *Boards and committees.* The city administrator shall work with all city boards and committees to help coordinate the work of each.
  - (8) *Attend city council meetings.* The city administrator shall, unless excused, attend all meetings of the city council.
  - (9) *Bid specifications.* The city administrator shall supervise the preparation of all bid specifications for services and equipment, and receive sealed bids for presentation to the city council.
  - (10) *State and federal aid programs.* The city administrator shall coordinate federal and state programs that may have application to the City of Black Jack.
  - (11) *Press releases.* The city administrator shall be responsible for keeping the public informed about the purposes and methods of city government through all available news media.
  - (12) *Record keeping.* The city administrator shall keep full and accurate records of all actions taken in the course of the duties of the office and shall safely and properly keep all records and papers belonging to the City of Black Jack and entrusted to the office. All such records shall be and remain the property of the City of Black Jack and shall be open to inspection by the mayor and city council at all times.
  - (13) *Miscellaneous.* In addition to the foregoing duties, the city administrator shall perform any and all other duties or functions prescribed by the mayor and city council.
- (c) In addition to the general authority stated in subsection (a) above, the city administrator shall have the following powers:
- (1) *City property.* The city administrator shall have the responsibility for all real and personal property belonging to the City of Black Jack, and for all inventories of such property and for the upkeep of all such property. Real property may be sold only with the approval of the city council by resolution or ordinance.
  - (2) *Set administrative policies.* The city administrator shall have the power to prescribe such rules and regulations as deemed necessary or expedient for the conduct of administrative agencies subject to the authority of said office and shall have the power to revoke, suspend or amend any rule or regulation of the administrative service except those prescribed by the city council.
  - (3) *Coordinate departments.* The city administrator shall have the power to coordinate the work of all departments of the city and at times of an emergency shall have authority to assign the employees of the city to any department where they are needed for the most effective discharge of the functions of city government.
  - (4) *Investigate and report.* The city administrator shall have the power to investigate and to examine or inquire into the affairs or operation of any department of the city within the jurisdiction of said office, and shall report on any condition or fact concerning the city government requested by the mayor or the city council.
  - (5)

*Coordinate officials.* The city administrator shall have the power to overrule any action taken by a department head and may supersede the functions of said department head.

- (6) *Appear before the city council.* The city administrator shall have the power to appear before and address the city council at any meeting.
- (7) *Powers and duties subordinate to action of mayor and city council.* At no time shall the duties or powers of the city administrator supersede the action of the mayor and city council.
- (d) The city administrator shall not have superintending control of the city attorney/special counsel, prosecuting attorney nor the municipal judge.
- (e) The mayor and city council shall retain the ability to communicate directly with all city employees and officials.
- (f) The mayor and city council shall hire and interview candidates for department head level positions in the City of Black Jack. The selection/interview process shall be determined by the personnel policy committee. The city administrator shall interview and make the final recommendation to the mayor and city council for appointments of all other subordinate employees of the city. The city administrator and the city council shall follow the city's personnel manual for the removal of all city employees.

(Ord. No. 724, § 2, 9-4-01; Ord. No. 747, § 4, 5-21-02)

Sec. 2-135. - Evaluation and compensation.

- (a) The city administrator shall receive as compensation for the performance of the duties of this office a salary payable in equal installments in accordance with the city's normal payroll procedures. The mayor shall recommend an initial starting salary and then annually recommend an annual salary to the city council during the annual salary review process. The recommended annual salary must be approved by the city council.
- (b) At least once a year after the appointment of the city administrator, the mayor and the city council shall evaluate the performance of the city administrator. This evaluation shall be made part of the confidential personnel file of the city administrator.

(Ord. No. 724, § 2, 9-4-01)

Sec. 2-136. - Removal.

- (a) The city council may remove the city administrator from office at will in accordance with the following procedures:
  - (1) The city administrator may be removed or suspended on recommendation of the mayor with consent of a majority of the city council, or by the two-thirds (2/3) vote of the city council on its own initiative.
  - (2) In such case, the mayor and city council shall grant the city administrator a closed hearing. Prior to holding the closed hearing and upon recommendation of the mayor with consent of a majority of the city council or by a two-thirds (2/3) vote of the city council on its own initiative, the city administrator may be suspended with full compensation and benefits. This suspension shall not exceed forty-five (45) days.
  - (3) After the closed meeting, the city council may adopt a final resolution of removal, without stating reason for such removal. An affirmative vote of a majority of the city council is required to make the resolution effective.
  - (4) The removal of the city administrator may be made effective immediately.

(Ord. No. 724, § 2, 9-4-01)

Secs. 2-137—2-140. - Reserved.

## DIVISION 7. - PLANNING AND ZONING ADMINISTRATOR

Sec. 2-141. - Establishment of office.

The office of planning and zoning administrator is hereby established.

(Ord. No. 732, § 1, 11-20-01)

Sec. 2-142. - Powers and duties.

The planning and zoning administrator shall:

- (1) Supervise and coordinate work assignments and direct flow of information and consultation activities relative to planning and zoning matters.
- (2) Supervise and coordinate work assignments and direct inspection activities relative to building regulations adopted by the city.
- (3) Review and provide written and/or oral summaries of legislative proposals.
- (4) Update job skills and education to keep abreast of developments in planning, zoning and code administration.
- (5) Plan, direct, coordinate, and monitor the current planning activities of the city.
- (6) Administer and coordinate the functions of zoning, subdivision, variance and nonstandard land use requests for the city.
- (7) Assist in the preparation of technical studies, designs, reports, capital improvement plans, comprehensive plans, grant proposals, orderly growth agreements, demographic analyses and similar long-range and strategic planning activities for the city.
- (8) Make formal presentations to a variety of groups and organizations.
- (9) Advise city officials with regard to issues of planning and zoning and code enforcement and present findings and serve as staff liaison to the planning and zoning commission and other community and citizen advisory groups.
- (10) Assist in the preparation of proposed ordinances and resolutions pertaining to planning and zoning matters.
- (11) Work with the city staff in an effort to improve quality of services.
- (12) Undertake planning studies as required.
- (13) Conduct site inspections to ensure compliance with approved plans and permits.
- (14) Direct and coordinate the administration, enforcement, and interpretation of the city zoning ordinance; respond in a timely manner to land use complaints; and present findings of fact regarding zoning ordinance violations to the city attorney.
- (15) Serve as a liaison to the planning and zoning commission.
- (16) Serve as technical support liaison to the board of adjustment.
- (17) Conduct research and prepare detailed staff reports for city variance requests and publish legal notices for public hearings.
- (18) Prepare an annual proposed departmental budget and review the budget on an ongoing basis.
- (19) Implement program for training departmental support personnel.
- (20) In the event of a vacancy in the office of director of public works, perform the duties of the director of public works.

(Ord. No. 732, § 1, 11-20-01)

Sec. 2-143. - Appointment; term.

The planning and zoning administrator shall be appointed by the city administrator, with the final approval of the mayor and a majority of the members of the city council, and shall be considered a salaried employee, exempt in accordance with paragraph VII(c) of the city personnel manual, with a monthly salary fixed by ordinance. The planning and zoning administrator shall be subject to the supervision of the city administrator. The planning and zoning administrator may be removed from office at will by the recommendation of the city administrator, with the approval of the mayor and upon a two-thirds (2/3) vote of all the members of the city council.

(Ord. No. 732, § 1, 11-20-01; Ord. No. 755, § 1, 5-21-02)

Sec. 2-144. - Reserved.

#### DIVISION 8. - ADMINISTRATION AND FINANCE MANAGER

Sec. 2-145. - Office established.

The office of administration and finance manager is hereby established.

(Ord. No. 786, § 2, 3-4-03)

Sec. 2-146. - Appointment; term.

The administration and finance manager shall be recommended for appointment by the mayor with final approval by the city council, and shall be considered a salaried full-time employee with a monthly salary fixed by ordinance. The administration and finance manager's job description shall be established by the personnel policy committee. The administration and finance manager shall be subject to the supervision of the city administrator or the mayor. The administration and finance manager may be removed from office at will by the mayor and two-thirds (2/3) votes of all the members of the city council.

(Ord. No. 786, § 3, 3-4-03)

Sec. 2-147. - Reserved.

#### DIVISION 9. - ASSISTANT CITY CLERK

Sec. 2-148. - Assistant city clerk.

- (a) There is hereby created the position of assistant city clerk.
- (b) The assistant city clerk shall perform the duties of the city clerk when the city clerk is not available to perform her/his duties, or the position of city clerk is vacant.
- (c) When acting, the assistant city clerk shall have the same powers and duties as the city clerk as mandated by Missouri State Statutes and city ordinances.
- (d) The position of assistant city clerk may be filled upon recommendation by the mayor of an individual for that post to the city council and approval by a majority vote of the members of city council. The assistant city clerk may be removed in the same manner.
- (e) The appointment shall be made by a resolution of the city council which will include the rate of pay for the assistant city clerk who may hold other positions with the city, and if that is the case, shall not receive additional compensation for acting as assistant city clerk.

(Ord. No. 873, §§ 1—5, 9-20-05)

Secs. 2-149, 2-150. - Reserved.

## ARTICLE V. - EMERGENCY MANAGEMENT AGENCY<sup>[8]</sup>

*Footnotes:*

-- (8) --

**Editor's note**—Ord. No. 320, adopted Dec. 4, 1984, amended this Code by adding provisions designated by the editor as Ch. 2, Art. V, §§ 2-151—2-156.

**State Law reference**— All political subdivisions required to establish local disaster planning organization, RSMo. § 44.080.

### Sec. 2-151. - Establishment.

There is hereby created within and for the city an emergency management organization to be known as the City of Black Jack Emergency Management Agency, which is responsible for the preparation and implementation of emergency functions required to prevent injury and minimize and repair damage due to disasters, to include emergency management of resources and administration of such economic controls as may be needed to provide for the welfare of the people, and emergency activities (excluding functions for which military forces are primarily responsible) in accordance with Chapter 44, Revised Statutes of Missouri, 1978, and supplements thereto, and the Missouri Emergency Operations Plan adopted thereunder.

(Ord. No. 320, § 1, 12-4-84)

### Sec. 2-152. - Organization.

- (a) The emergency management agency shall consist of a director appointed by the city administrator, with the final approval of the mayor and a majority of the members of the city council, employees of the city and other members as required to conform to the state organization and procedures for the conduct of emergency operations as outlined in the current Missouri Emergency Operations Plan.
- (b) An advisory committee will consist of the mayor, city administrator, fire chief, St. Louis County Police liaison and public works director.
- (c) The city council shall retain legislative power, including power to adopt emergency legislation should an emergency and/or disaster situation occur necessitating such special legislation.
- (d) If there is a vacancy in the director's position for the emergency management agency, the city administrator shall temporarily fill that position.

(Ord. No. 320, § 2, 12-4-84; Ord. No. 751, § 1, 5-21-02)

### Sec. 2-153. - Functions.

The emergency management organization shall perform emergency management functions within the territorial limits of the city and may conduct these functions outside the territorial limits as directed by the governor during the time of emergency pursuant to the provisions of Chapter 44, Revised Statutes of Missouri, 1978, and supplements thereto.

(Ord. No. 320, § 3, 12-4-84)

### Sec. 2-154. - Officers and duties.

#### (a) *Director.*

- (1) The director shall have direct responsibilities for the organization, administration and operations of local emergency management activities.

- (2) The director shall be responsible for maintaining records and accounting for the use and disposal of all items of equipment placed under the jurisdiction of the emergency management agency.
- (b) *Executive officer.* The mayor as executive officer and the director, in accordance with Chapter 44, Revised Statutes of Missouri, 1978, and supplements thereto, with the approval of the council, may:
- (1) Appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for civil preparedness purposes;
  - (2) Provide for the health and safety of persons, including emergency assistance to victims of any enemy attack; the safety of property; and direct and coordinate the development of disaster plans and programs in accordance with the policies and plans of the federal, state, and city disaster and emergency planning;
  - (3) Appoint, provide or remove rescue teams, auxiliary fire and police personnel and other emergency operations teams, units or personnel who may serve without compensation;
  - (4) In the event of enemy attack or a national disaster, waive the provisions of statutes requiring advertisements for bids for the performance of public work or entering into contracts;
  - (5) With the approval of the governor and the council and consistent with the Missouri Emergency Operations Plan, enter into mutual aid agreements with other public and private agencies within and without the state for reciprocal emergency aid;
  - (6) Accept services, materials, equipment, supplies or funds granted or loaned by the federal government for disaster planning and operations purposes.

(Ord. No. 320, § 4, 12-4-84)

#### Sec. 2-155. - Oath.

No person shall be employed or associated in any capacity in any organization established under this article who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States, or in this state or the overthrow of any government in the United States by force or violence, or has been convicted of or is under indictment or information charging any subversive act against the United States. Each person who is appointed to serve in the organization shall, before entering upon his duties, take an oath, in writing, before a person authorized to administer oaths in this state, which oath shall be substantially as follows:

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of Missouri against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter. And I do further swear (or affirm) that I do not advocate, nor am I a member of any political party or organization that advocates, the overthrow of the government of the United States or of this State by force or violence; and that during such a time as I am a member of the City of Black Jack Emergency Management Agency, I will not advocate nor become a member of any political party or organization that advocates the overthrow of the government of the United States or of this State by force or violence."

(Ord. No. 320, § 5, 12-4-84)

#### Sec. 2-156. - Office space.

The mayor is authorized to designate space in any city-owned or -leased building for the emergency management office.

(Ord. No. 320, § 6, 12-4-84)

Secs. 2-157—2-170. - Reserved.

ARTICLE VI. - PURCHASING<sup>[9]</sup>

*Footnotes:*

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**Editor's note**—Ord. No. 447, § 11, adopted May 15, 1990, provided that the provisions of said Ord. No. 447 be included in the Code, and at the discretion of the editor, §§ 1—10 of said ordinance have been included herein as Art. VI, §§ 2-171—2-180.

Sec. 2-171. - Purchasing procedure.

No purchase, purchases or contracts for services of any kind or description, payment for which is to be made from funds of the city, shall be made by any officer, employee or agent of the city, except in the manner hereafter set forth in this article.

(Ord. No. 447, § 1, 5-15-90)

Sec. 2-172. - Purchasing agent.

The finance and administration manager shall act as the purchasing agent. The purchasing agent shall, in accordance with and subject to the rules, regulations and procedures of this article and all applicable laws and ordinances:

- (1) Direct, supervise and be responsible for the procurement and acquisition of all materials, supplies and equipment and all contractual services required by any department or officer of the city. The purchasing agent shall not be responsible for contracts for the acquisition of real estate or for professional services, except as provided for by this article.
- (2) The purchasing agent shall sell or dispose of all obsolete or unusable personal property of the city at the direction of the mayor and the city council.

(Ord. No. 447, § 2, 5-15-90; Ord. No. 747, § 4, 5-7-02; Ord. No. 795, § 1, 8-5-03)

Sec. 2-173. - Purchasing rules.

- (a) *Purchase under one thousand dollars (\$1,000.00).* Whenever any contemplated purchase or contract for goods or services is for the sum of one thousand dollars (\$1,000.00) or less, the department head authorized by the mayor may order or purchase the goods or services as needed without further formality, except that the department head must submit an invoice to the purchasing agent for such purchase within three (3) business days after ordering or purchasing the goods or services. Notwithstanding the foregoing, where it is necessary to obtain bids or proposals and pay for the bids or proposals, so long as such bids or proposals are not more than one hundred dollars (\$100.00.00) each, or three hundred dollars (\$300.00) in the aggregate, the cost of obtaining the bids or proposals shall not count towards the one thousand dollar (\$1,000.00) limit under this paragraph.
- (b) *Purchases of one thousand dollars (\$1,000) to five thousand dollars (\$5,000.00), inclusive.* Whenever any contemplated purchase or contract for goods or services is for a sum in excess of one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000.00), a minimum of three (3) oral or written quotations for the item or services shall be secured. The requestor shall submit the purchase

order and a copy of the bids to the mayor and purchasing agent for their approval before an order is placed with the vendor. If the requestor is unable to secure three (3) quotations a notation shall be attached to the purchase order explaining why three (3) quotations were not submitted.

- (c) *Purchases in excess of five thousand dollars (\$5,000.00), other than for public works projects or street and sidewalk improvements.* Whenever any contemplated purchase or contract for goods or services, other than for public works projects or street and sidewalk improvements, for a sum in excess of five thousand dollars (\$5,000.00), the requestor shall prepare specifications based upon standards appropriate to meet the city's needs. The specifications shall be forwarded to the mayor and city council for comment and review prior to the preparation of the bid package. After approval of the specifications by the mayor, the city clerk shall post notice inviting bids at city hall and mail notice to all responsible prospective suppliers of the items to be purchased or the service to be performed. The notice herein required shall include a general description of the article to be purchased or the services to be performed. The time and place of the bid opening shall also be specified. After the bid opening, the requestor shall submit a purchase order and a copy of the written and signed bids to the mayor and purchasing agent for their approval before an order is placed with the vendor. If the requestor is unable to secure a minimum of three (3) bids, a notation shall be attached to the purchase order explaining why three (3) quotations were not submitted.
- (d) *Public works projects in excess of five thousand dollars (\$5,000.00).* Whenever any contemplated purchase or contract for a public works project is for a sum in excess of five thousand dollars (\$5,000.00), the requestor shall prepare specifications based upon standards appropriate to meet the city's needs. The specifications shall be forwarded to the mayor and city council for comment and review prior to the preparation of the bid package. After approval of the specifications by the mayor, the city clerk shall cause to be published a notice inviting bids. If the bidding process requires a newspaper bid the city clerk shall cause to be published in at least one (1) issue of a newspaper of general circulation in the city, a notice inviting bids. Said notice shall be published at least ten (10) days prior to the date set for the receipt of the bids. The notice herein required shall include a general description of the article to be purchased or the services to be performed. The time and place of the bid opening shall also be specified. The notice inviting bids shall be posted at city hall and may also be mailed to all responsible prospective suppliers of the items to be purchased or the service to be performed, which notice shall be a copy of the notice inserted in the newspaper hereinbefore required. The requestor may purchase the items or services from the lowest responsible bidder after obtaining the approval of the city council.
- (e) *Street and sidewalk improvements.* Whenever any street or sidewalk improvement is to be contracted out, the public works director shall prepare specifications based upon standards appropriate to meet the city's needs. The specifications shall be forwarded to the mayor and city council for comment and review prior to the preparation of the bid package. After approval of the specifications by the mayor, the city clerk shall cause to be published a notice inviting bids. Advertisements for street improvement bids shall be published in at least two (2) consecutive issues of a weekly newspaper or seven (7) consecutive issues in a daily paper of general circulation in the city. Advertisements for sidewalk improvements shall be published in at least one (1) issue of a weekly newspaper or two (2) consecutive issues of a daily newspaper of general circulation in the city. Said notice shall be published at least ten (10) days prior to the date set for the receipt of the bids. The notice herein required shall include a general description of services to be performed. The time and place of the bid opening shall also be specified. The notice inviting bids shall be posted at city hall and may also be

mailed to all responsible prospective suppliers of the service to be performed, which notice shall be a copy of the notice inserted in the newspaper hereinbefore required. The mayor may enter into a contract with the lowest responsible bidder after obtaining the approval of the city council.

- (f) *Construction management services.* Whenever it is deemed necessary to employ construction management services for public works projects, the public works director shall prepare specifications based upon standards appropriate to meet the city's needs. The specifications shall be forwarded to the mayor and city council for comment and review prior to the preparation of the request for proposal (RFP). After approval by the mayor, the city clerk shall cause to be published a notice inviting RFP's. Advertisements for services on projects totaling five hundred thousand dollars (\$500,000.00) to one million five hundred thousand dollars (\$1,500,000.00) shall be published for ten (10) days in one (1) newspaper of general circulation in the county, and for projects exceeding one million five hundred thousand dollars (\$1,500,000.00) advertisements shall be published for ten (10) days in two (2) daily newspapers in the state having a general circulation of not less than fifty thousand (50,000) in addition to the required advertisement in the county. The notice herein required shall include a general description of services to be performed. The time and place of the bid opening shall also be specified. The notice inviting bids shall be posted at city hall and may also be mailed to all responsible prospective suppliers of the service to be performed, which notice shall be a copy of the notice inserted in the newspaper hereinbefore required. The mayor may enter into a contract with the lowest responsible bidder after obtaining the approval of the city council.
- (g) *Confirmation of employees' and owners' immigration status by contractors.* The successful bidder on any contract to provide services or products to the city that exceeds five thousand dollars (\$5,000.00) shall contain language that complies with the requirements of RSMo 285.530, 2008 confirming its participation in a federal work authorization program and supply the affidavit in respect to the employment of unauthorized aliens in connection with the contracted services. The contract shall also, where applicable, contain representations that the employees of the contractor have undergone the required training for OSHA in compliance with RSMo 292.675, 2008. Each successful bidder is solely responsible for furnishing affidavits to the city in proper form, properly signed and notarized, and otherwise in accordance with the requirements of this section and state law.

(Ord. No. 447, § 3, 5-15-90; Ord. No. 480, §§ 1—4, 10-15-91; Ord. No. 600, §§ 1—3, 7-16-96; Ord. No. 778, § 2, 1-21-03; Ord. No. 853, § 1, 3-15-05; Ord. No. 973, §§ 1—3, 5-19-09)

Sec. 2-174. - Bidding procedure.

- (1) All notices and solicitation of bids shall state the date/time and place for opening.
- (2) All bids to the city shall be submitted sealed and shall be identified as a sealed bid on the envelope.
- (3) All bidders shall represent in their bid responses that they are in full compliance with the requirements of RSMo 285.530, 2008 in respect to representations of their employees' immigration status.
- (4) All bidders who are subject to the provisions of RSMo 292.675 in respect to verification of OSHA training for employees of contractors engaged in "Public Works on behalf of the City" shall confirm their compliance with these requirements in their bid response.
- (5) All bids shall be opened in public at the time and place stated in the public notice for the bids.
- (6) A tabulation of all bids received shall be posted in the city hall for public inspection for five (5) days after the bid opening.
- (7) The city council shall have the authority to reject any and all bids or parts of all bids and re-advertise or re-solicit bids.

(Ord. No 973, § 4, 5-19-09)

**Editor's note—** Ord. No. 973, § 4, adopted May 19, 2009, deleted § 2-174, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 2-174 pertained to similar subject matter. See Code Comparative Table for derivation.

Sec. 2-175. - Determining lowest responsible bidder.

Unless there is an exercise of the right of rejection the purchase or contract shall be made from and with the lowest responsible bidder for any article or to the lowest responsible bidder for the entire purchase or contract for any part thereof. In determining the lowest responsible bidder, the following shall be considered:

- (1) The demonstrated ability, capacity and skill of the bidder to perform the requirements of the contract or to provide the services required.
- (2) The ability of the bidder to perform the contract requirements or provide the services promptly or within the specified time without delay or interference.
- (3) The quality of performance by the bidder on previous contracts or services.
- (4) The previous and existing compliance by the bidder with the laws and ordinances of the city.
- (5) The financial resources and the ability of the bidder to perform the contract or provide the service.
- (6) The quality, availability and adaptability of the supplies or service.

(Ord. No. 447, § 5, 5-15-90)

Sec. 2-176. - Approval of purchases.

All purchase orders or contracts shall be for goods and services covered by a category in the budget for the current fiscal year as approved by the city council. Any purchase for an item not provided for in the current fiscal year budget shall receive the prior approval of the city council. All purchases for goods and services costing in excess of five thousand dollars (\$5,000.00) shall be approved in advance by the city council except as provided hereinafter.

(Ord. No. 447, § 6, 5-15-90; Ord. No. 853, § 3, 3-15-05)

Sec. 2-177. - Miscellaneous purchasing requirements.

- (a) *Sole source.* In the event that there is only one (1) firm or company or individual capable of providing a particular service or commodity and said services or commodities cannot be secured from other persons or companies then the bidding requirements contained above shall not be applicable and the requestor is authorized to proceed with the purchases of such service or commodity as required by the city. Sole source purchases for amounts exceeding five thousand dollars (\$5,000.00) shall be approved in advance by the city council.
- (b) *Contract bond.* The city shall have the authority to require a contract bond, in cash or otherwise, in such amount as it may deem sufficient to secure the execution of the contract for goods or services for the best interests of the city.
- (c) *Emergency purchases.* In the case of an emergency which requires immediate purchase of supplies or services and time is of the essence the mayor or the mayor's designee shall be empowered to authorize the purchase or to secure the services needed without complying with procedures set forth in this article. This section shall also apply to any natural disaster or civil emergency requiring an

immediate response on the part of the city. A full report in writing of the circumstances requiring an emergency purchase shall be filed by the department head with the city council each time an emergency purchase is made.

- (d) *Professional services.* The competitive bidding requirements of this article shall not apply to professional services, and the requirements herein shall not be required in the employment of professional services, including but not limited to attorneys, engineers, certified public accountants and planners. The requestor is encouraged to request proposals from capable professionals within the required discipline.
- (e) *Cooperative purchasing.* This article, and the requirements herein, shall not apply to purchases made through or with any other governmental jurisdiction which operates a cooperative procurement program and will allow the city to purchase goods or services that the jurisdiction has made available following the completion of its own internal purchasing procedure.
- (f) *Subdividing prohibited.* No contract or purchase shall be subdivided to avoid the requirements of this section.
- (g) *Per unit purchasing.* The purchasing agent shall have the authority to purchase on a "per unit" basis those items which have been specifically identified on a list for such purchases, provided said list has been approved by the city council prior to the purchase. Any items contained on said list must be for the purchase of commodities only and the per unit price for such item may not exceed three thousand dollars (\$3,000.00) and must already fall within the total amount budgeted by the city for the purchase of said commodity.

(Ord. No. 447, § 7, 5-15-90; Ord. No. 600, §§ 5, 6, 7-16-96; Ord. No. 853, § 4, 3-15-05)

Sec. 2-178. - Conflicts of interest.

- (a) Any purchase order or contract within the purview of this article in which any officer or employee of the city is financially interested, directly or indirectly, shall be void, except that the city council shall have the authority to waive compliance with this section when it finds such action to be in the best interest of the city.
- (b) All officers and employees of the city shall not directly or indirectly solicit any gifts or accept or receive any gift, under circumstances in which it could reasonably be inferred that the gift was intended to influence them, or could reasonably be expected to influence them, in the performance of their official duties or was intended as a reward for any official action on their part.

(Ord. No. 447, § 8, 5-15-90)

**Cross reference—** Conflicts of interest, § 2-211 et seq.

Sec. 2-179. - Inspections and testing.

- (a) *Inspections.* The requestor shall inspect or cause the inspection of all deliveries of supplies or contractual services to determine their conformance with the specifications set forth in the order or contract therefor.
- (b) *Tests.* The requestor with the approval of the mayor or his designee shall have the authority to require chemical and physical tests of samples submitted with bids and samples of deliveries which are necessary to determine their quality and conformity with the specifications. In the performance of the tests the requestor shall have the authority to make use of any outside laboratory.

(Ord. No. 447, § 9, 5-15-90)

Sec. 2-180. - Surplus materials.

- (a) *Report*. All department heads shall submit to the mayor at such time the mayor shall prescribe, a report in writing showing stocks of all supplies which are no longer needed or which have become obsolete, worn out or scrapped.
- (b) *Transfers*. The mayor is hereby authorized to transfer surplus materials to other departments.
- (c) *Sales*. The mayor is hereby authorized to sell all supplies having an estimated value of less than two thousand five hundred dollars (\$2,500.00) which have become unsuitable for public use, or to exchange the same for, or trade in the same, on new supplies. Sales under this subsection shall be made to the highest possible bidder.

(Ord. No. 447, § 10, 5-15-90)

Secs. 2-181—2-200. - Reserved.

## ARTICLE VII. - YOUTH ADVISORY COMMISSION<sup>[10]</sup>

### *Footnotes:*

— (10) —

**Editor's note**—Ord. No. 459, adopted Feb. 5, 1991, amended Ch. 2 by the addition of a new Art. VI and to avoid duplicative article numbering said provisions have been included herein at the discretion of the editor as Art. VII, §§ 2-201—2-208.

Sec. 2-201. - Established.

There is hereby established a Youth Advisory Commission for the City of Black Jack.

(Ord. No. 459, § 1, 2-5-91)

Sec. 2-202. - Membership.

The youth advisory commission shall consist of five (5) adult regular voting members. In addition, the commission shall have two non-voting youth representatives whose terms will be one (1) academic year from each accredited public or private junior and senior high school attended by a minimum of twenty-five (25) young residents of the city. The mayor, a member of the parks and recreation commission, and a representative of the city council shall serve as ex officio non-voting members of the commission.

(Ord. No. 966, § 1, 3-17-09)

**Editor's note**— (Ord. No. 966, § 1, adopted Mar. 17, 2009, deleted § 2-202 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 2-202 pertained to similar subject matter. See Code Comparative Table for derivation.

Sec. 2-203. - Appointment.

The members of the commission shall be appointed by the mayor subject to an appropriate background check and subject to the approval of the city council and shall be residents of the city for at least one (1) year prior to their appointment.

(Ord. No. 966, § 2, 3-17-09)

**Editor's note**— (Ord. No. 966, § 2, adopted Mar. 17, 2009, deleted § 2-203 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 2-203 pertained to similar subject matter. See Code Comparative Table for derivation.

Sec. 2-204. - Terms.

- (a) The terms of members of the commission shall be two (2) years. Members may be reappointed, except those appointed as youth representatives may not be reappointed in the event that they have passed the age of twenty (20).
- (b) Such members of the commission shall hold their respective office from the first of June following their appointment.
- (c) Vacancies occasioned by removal, resignation or otherwise, shall be reported to the city council, and shall be filled in like manner as original appointments, except that the term of office is restricted to the unexpired term of office.
- (d) The mayor may, by and with the approval of the city council, remove any member of the commission for misconduct or neglect of duty.
- (e) All citizen members of the commission shall serve without compensation.

(Ord. No. 459, § 4, 2-5-91; Ord. No. 966, § 3, 3-17-09)

#### Sec. 2-205. - Duties.

It shall be the duty of the youth advisory commission to advise the mayor and city council on all phases of youth needs, services and programs. These shall include but not be limited to:

- (1) Recreation.
- (2) Youth roles in crime prevention and community service.
- (3) Interaction with the residents of the community.

It shall also be the duty of the commission to review all programs conducted by the city for young persons and to make recommendations to the mayor and city council concerning any programs or changes to existing programs that it deems appropriate for the young residents of the city. The commission shall make an annual report to the mayor and city council concerning its activities.

(Ord. No. 459, § 5, 2-5-91)

#### Sec. 2-206. - Officers.

The youth advisory commission shall at its first meeting after the annual appointment of its members, elect one (1) of its members as chairman, vice-chairman and secretary.

(Ord. No. 459, § 6, 2-5-91)

#### Sec. 2-207. - Rules and regulations.

- (a) The commission shall make and adopt such by-laws, rules and regulations for its own guidance and proceedings as may be expedient, not inconsistent with the ordinances of the city.
- (b) The commission shall hold regular scheduled monthly meetings. Such meetings shall be held in the City Hall, and shall be open to the public. The commission shall provide within a reasonable period of time a copy of the minutes of each meeting to the mayor, city council and city clerk.

(Ord. No. 459, § 7, 2-5-91)

#### Sec. 2-208. - Finance.

The commission shall submit an annual budget to the city council by April 1 of each year. The city council shall annually fix a sum to be used by the commission for operating expenses, and such funds shall be under the management and jurisdiction of the commission, however, the commission shall at no

time incur expenses or obligate the city for any amount in excess of the appropriations made by the city council for operating expenses provided for in this section. The commission shall comply with the purchasing procedures established by the city for all purchases authorized by the commission.

(Ord. No. 459, § 8, 2-5-91)

Secs. 2-209, 2-210. - Reserved.

ARTICLE VIII. - RESERVED<sup>[11]</sup>

*Footnotes:*

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**Editor's note**—Former article VIII which pertained to conflicts of interest was removed by direction of the town. See the Code Comparative Table for the article's ordinance history.

Secs. 2-211—2-219. - Reserved.

ARTICLE IX. - HISTORIC PRESERVATION COMMITTEE

Sec. 2-220. - Definitions.

The definitions set forth in Section 030 of the City of Black Jack Zoning Ordinance and the following definitions shall apply to this article:

*Committee:* The historic preservation committee.

*Improvement:* Any building, structure, parking facility, street, highway, walk, fence, landscaped area, gate, wall, work of art or other object, the use of which requires a location on a parcel of land which constitutes a physical betterment of, attachment to, or alteration of real property, or any part of such betterment, attachment or alteration.

*Landmark:* Any natural site or improvement (including any park, cemetery, street or right-of-way) that has a significant historical interest or value as part of the development, heritage or cultural characteristics of the city, state or nation, and has been designated as a landmark pursuant to the provisions of this use district.

*Landmark and preservation area:* A parcel of land, or any part thereof, on which is situated a landmark and any abutting parcel or part thereof used as and constituting a part of the premises on which a designated landmark is situated, and which has been designated as a landmark area pursuant to the provisions of this use district.

*Owner:* Any person, corporation or other entity having such right or title to or interest in any land or improvement so as to be legally entitled, upon obtaining permits required by this Code, to perform with respect to such land or improvement any construction, exterior or structural alteration, demolition or repair.

(Ord. No. 611, § 1, 3-18-97)

Sec. 2-221. - Established.

(a) There shall be established a committee to be known as the historic preservation committee which shall consist of not more than seven (7) members nor less than five (5) members. It is desired, but not mandatory, that one (1) member shall be the owner of a landmark structure within the city limits and

one (1) person having at least three (3) years previous experience in the business of buying, selling or dealing in real estate. The remaining members shall be persons who, by training, experience or activity, have demonstrated an interest in preserving the landmarks of the city as they are defined in this section. No member of city government shall be a voting member of said committee. The city council shall elect from among its members a council liaison representative to said committee. The council liaison representative shall be a nonvoting, ex-officio member of the committee. Members of the committee shall receive no compensation for their services as such.

- (b) The committee shall be appointed by the mayor. Members shall fill overlapping terms of two (2) years except for appointment to fill a vacancy during the unexpired term of a member. Members shall be residents of the city at least one (1) year prior to their appointment and shall have exhibited interest in and knowledge of the history of the area. The mayor may remove any member from the committee for reasons of inefficiency, misconduct, neglect of duty or malfeasance.
- (c) The committee may appoint an advisory committee to provide such assistance as it deems helpful.
- (d) The committee shall, at its first meeting after the annual appointment of its members, elect one (1) of its members as chairman, vice-chairman and secretary.
- (e) The committee shall submit an annual budget to the city council by April first of each year. The city council shall annually fix a sum to be used by the committee for operating expenses, and such funds shall be under the management and jurisdiction of the committee, however, the committee shall at no time incur expenses or obligate the city for any amount in excess of the appropriations made by the city council for operating expenses provided for in this section. The committee shall comply with the purchasing procedure established by the city for all purchases authorized by the committee.

(Ord. No. 611, § 1, 3-18-97)

Sec. 2-222. - Powers and duties.

- (a) The committee shall review and make recommendations with respect to historic preservation in the city; establish and articulate standards for minimum exterior appearance of improvements and the regulation of such improvements in designated landmark and preservation areas, using the most recent issue of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and promote increased public awareness of the value of historic, architectural and cultural preservation through public information programs.
- (b) The committee shall advise the mayor, city council, and planning and zoning commission of all significant matters relating to historic, architectural, archaeological, and cultural preservation in the city.
- (c) The committee shall research, identify and inventory sites characterized by two (2) or more of the criteria set forth in subparagraphs (1) through (5) of section 320.3 of the City of Black Jack Zoning Ordinance to determine the potential properties to be classified as landmark and preservation areas in the city.
- (d) The committee shall have authority to establish criteria and to designate those buildings, structures, parks, areas, sites, districts and items of natural or artificial phenomena which in its judgement should be officially designated as landmarks under the provisions of this section. In determining what should be designated a landmark under this section, the committee shall take into account the age, design, period of construction, aesthetic value, past use, historical significance, unusual nature, point of location or other recognized or generally accepted basis.

(Ord. No. 611, 3-18-97)

Secs. 2-223—2-229. - Reserved.

## ARTICLE X. - PERSONNEL POLICY COMMITTEE

### Sec. 2-230. - Established.

- (a) There shall be established a committee to be known as the personnel policy committee (the "committee"). The committee shall consist of three (3) to five (5) members, two (2) of whom shall be members of the city council. The members of the committee shall serve without compensation and shall be appointed by the mayor with the advice and consent of a majority of the city council. Each member of the committee shall serve for a term of two (2) years. The term of each member shall commence on June 1 following the appointment of the member, except that the first set of committee members be appointed for a term of one (1), two (2), three (3), four (4), and five (5) years, respectively, as designated by the mayor and approved by the council with each respective term expiring on May 31. If a member dies, resigns or is removed as provided herein, that member's successor shall be appointed in the same manner as an original appointee and shall serve the unexpired term of such former member.
- (b) To be qualified to be appointed to the committee, the appointee must be a current resident or official, but not more than two (2) city council members and shall have resided in and/or been employed by the city for at least one (1) year. A member may be reappointed for a succeeding term(s). The mayor may, with the approval of a majority of the city council, remove a member of the committee for reasons of inefficiency, misconduct, neglect of duty or malfeasance.

(Ord. No. 670, § 1, 12-21-99)

### Sec. 2-231. - Officer, meetings, and rules.

- (a) The committee shall at its first meeting following May 31 of each year, elect a member of the committee as chairman of the committee, and shall elect such other officers as the members shall deem necessary. The committee shall adopt such by-laws, rules and regulations for its proceedings as may be expedient, provided such by-laws, rules and regulations are not inconsistent with the ordinances of the city.
- (b) The committee shall hold regularly scheduled meetings on the first Monday of the month. Special meetings may be called by the mayor or the chairman as necessary. A majority of the members currently appointed and present shall constitute a quorum for the holding of a meeting. Within a reasonable time after each meeting, the committee shall provide to the mayor, city council and city clerk a copy of the minutes of such meeting.
- (c) The mayor shall be an ex-officio member of the committee.

(Ord. No. 670, § 1, 12-21-99)

### Sec. 2-232. - Goals.

The committee shall develop of effective personnel policy that will encourage respect for and acknowledge the dignity of the employees of the city.

(Ord. No. 670, § 1, 12-21-99)

### Sec. 2-233. - Duties of the committee.

The duties of the committee shall include, but not be limited to, the following:

- (a)

Advise the mayor or the mayor's designee on the hiring, disciplining and/or discharging of employees of the city.

- (b) Hear formal appeals of grievances as specified in the City of Black Jack Personnel Policy Manual.
- (c) Periodically review and recommend updates for the City of Black Jack Personnel Policy Manual.
- (d) Study current personnel trends and make recommendations to the mayor and city council regarding such trends.
- (e) Periodically review and recommend changes to the mayor and city council of the City of Black Jack job descriptions.
- (f) Periodically review and recommend changes in employee compensation and benefits.
- (g) Review all requests for new job titles and job descriptions and make recommendations to the mayor and city council concerning such titles and descriptions.

(Ord. No. 670, § 1, 12-21-99)

Secs. 2-234—2-260. - Reserved.

#### ARTICLE XI. - OPEN MEETINGS AND RECORDS<sup>[12]</sup>

*Footnotes:*

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**Editor's note**— Ord. No. 1075, § 1, adopted July 21, 2015, deleted the former article XI, §§ 2-261—2-2-273 and 2-301—2-306, and enacted a new article XI as set out herein. The former Art. XI pertained to similar subject matter and derived from Ord. No. 837, adopted October 19, 2004.

#### DIVISION 1. - GENERALLY

##### Sec. 2-261. - Definitions.

As used in this article, unless the context otherwise indicates, the following terms mean:

*Closed meeting, closed record, closed vote:* Any meeting, record or vote closed to the public.

*Copying:* If requested by a member of the public, copies provided as detailed in the provisions of this chapter, if duplication equipment is available.

*Public business:* All matters which relate in any way to the performance of the city's functions or the conduct of its business.

*Public governmental body:* Any legislative, administrative, governmental entity created by the constitution or statutes of this state, orders or ordinance of the city, judicial entities when operating in an administrative capacity, or by executive order, including:

- (1) Any advisory committee or commission appointed by the mayor or city council.
- (2) Any department or division of the state, of any political subdivision of the state, of any county or of any municipal government, school district or special purpose district including but not limited to sewer districts, water districts, and other sub-districts of any political subdivision;
- (3) Any other legislative or administrative governmental deliberative body under the direction of three (3) or more elected or appointed members having rulemaking or quasi-judicial power.
- (4)

Any committee appointed by or at the direction of any of the entities and which is authorized to report to any of the above named entities, any advisory committee appointed by or at the direction of any of the named entities for the specific purpose of recommending, directly to the mayor or city council, policy or policy revisions or expenditures of public funds. The custodian of the records of any public governmental body shall maintain a list of the policy advisory committees described in this section; and

(5) Any quasi-public governmental body.

*Public meeting:* Any meeting of a public governmental body subject to this chapter at which any public business is discussed, decided, or public policy formulated, whether such meeting is conducted in person or by means of communication equipment, including, but not limited to, conference call, video conference, internet chat, or internet message board. The term "public meeting" shall not include an informal gathering of members of a public governmental body for ministerial or social purposes when there is no intent to avoid the purposes of this article, but the term shall include a public vote of all or a majority of the members of a public governmental body, by electronic communication or any other means, conducted in lieu of holding a public meeting with the members of the public governmental body gathered at one (1) location in order to conduct public business.

*Public record:* Any record, whether written or electronically stored, retained by or of any public governmental body including any report, survey, memorandum, or other document or study prepared for the public governmental body by a consultant or other professional service paid for in whole or in part by public funds, including records created or maintained by private contractors under an agreement with a public governmental body or on behalf of a public governmental body. The term "public record" shall not include any internal memorandum or letter received or prepared by or on behalf of a member of a public governmental body consisting of advice, opinions and recommendations in connection with the deliberative decision-making process of said body, unless such records are retained by the public governmental body or presented at a public meeting. Any document or study prepared for a public governmental body by a consultant or other professional service as described in this section shall be retained by the public governmental body in the same manner as any other public record.

*Public vote:* Any vote, whether conducted in person, by telephone, or by any other electronic means, cast at any public meeting of any public governmental body.

*Quasi-public governmental body:* Any person, corporation or partnership organized or authorized to do business in this state pursuant to the provisions of RSMo. Chs. 352, 353 or 355, or unincorporated association which either:

- (1) Has as its primary purpose to enter into contracts with public governmental bodies, or to engage primarily in activities carried out pursuant to an agreement or agreements with public governmental bodies; or
- (2) Performs a public function, as evidenced by a statutorily based capacity to confer or otherwise advance, through approval, recommendation or other means, the allocation or issuance of tax credits, tax abatement, public debt, tax exempt debt, rights of eminent domain, or the contracting of leaseback agreements on structures whose annualized payments commit public tax revenues; or any association that directly accepts the appropriation of money from the city, but only to the extent that a meeting, record, or vote relates to such appropriation.

Sec. 2-262. - Meetings, records, votes to be public; exceptions.

All meetings, records and votes are open to the public, except that any meeting, record, minutes or vote relating to one (1) or more of the following matters, as well as other materials designated elsewhere in this chapter, shall be closed unless the public governmental body votes to make them public:

- (1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote, or settlement agreement relating to legal actions, causes of action, or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of RSMo. § 610.111, however the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided however, in matters involving the exercise of the power of eminent domain, the vote shall be announced or become public immediately following the action on the motion to authorize institution of such a legal action. Legal work product shall be considered a closed record.
- (2) Leasing, purchase or sale of real estate by a public governmental body where public knowledge of the transaction might adversely affect the legal consideration therefor. However, any minutes or vote or public record approving a contract relating to the leasing, purchase or sale of real estate by a public governmental body shall be made public upon execution of the lease, purchase, or sale of the real estate.
- (3) Hiring, firing, disciplining or promoting of particular employees by a public governmental body when personal information about the employee is discussed or recorded. However, any vote on a final decision, when taken by a public governmental body, to hire, fire, promote or discipline an employee of a public governmental body shall be made available with a record of how each member voted to the public within seventy-two (72) hours of the close of the meeting where such action occurs; provided, however, that any employee so affected shall be entitled to prompt notice of such decision during the seventy-two-hour period before such decision is made available to the public. As used herein, the term "personal information" means information relating to the performance or merit of individual employees.
- (4) The state militia or national guard.
- (5) Nonjudicial mental or physical health proceedings involving identifiable persons, including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment.
- (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including records of individual test or examination scores. However, personally identifiable student records maintained by public educational institutions shall be open for inspection by the parents, guardian or other custodian of students under the age of eighteen (18) years and by the parents, guardian or other custodian and the student if the student is over the age of eighteen (18) years.
- (7)

Testing and examination materials, before the test or examination is given or, if it is to be given again, before so given again.

- (8) Welfare cases of identifiable individuals.
- (9) Preparation, including any discussions or work product, on behalf of a public governmental body or its representatives for negotiations with employee groups.
- (10) Software codes for electronic data processing and documentation thereof.
- (11) Specifications for competitive bidding, until either the specifications are officially approved by the public governmental body or the specifications are published for bid.
- (12) Sealed bids and related documents, until the bids are opened; and sealed proposals and related documents or any documents related to a negotiated contract until a contract is executed, or all proposals are rejected.
- (13) Individually identifiable personnel records, performance ratings or records pertaining to employees or applicants for employment, except that this exemption shall not apply to the names, positions, salaries and lengths of service of officers and employees of public agencies once they are employed as such. It is the policy of the city that no information relating to present or past employees other than names, positions, salaries and lengths of service shall be provided to any person or agency other than: (i) as specifically requested in writing by the employee in question in accord with applicable provisions of the city's personnel policies; (ii) as may be required in response to a subpoena lawfully issued by a court of competent jurisdiction, or (iii) as otherwise may be required by law.
- (14) Records which are protected from disclosure by law.
- (15) Meetings and public records relating to scientific and technological innovations in which the owner has a proprietary interest.
- (16) Records relating to municipal hotlines established for the reporting of abuse and wrongdoing.
- (17) Confidential or privileged communications between a public governmental body and its auditor, including all auditor work product; however, all final audit reports issued by the auditor are to be considered open records pursuant to this article.
- (18) Operational guidelines and policies developed, adopted, or maintained by any public agency responsible for law enforcement, public safety, first response, or public health for use in responding to or preventing any critical incident which is or appears to be terrorist in nature and which has the potential to endanger individual or public safety or health. Nothing in this exception shall be deemed to close information regarding expenditures, purchases, or contracts made by an agency in implementing these guidelines or policies. When seeking to close information pursuant to this exception, the agency shall affirmatively state in writing that disclosure would impair its ability to protect the safety or health of persons, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records. This exception shall expire and be of no further force or effect on December 31, 2008.
- (19) Existing or proposed security systems and structural plans of real property owned or leased by a public governmental body, and information that is voluntarily submitted by a nonpublic entity owning or operating an infrastructure to any public governmental body for use by that body to devise plans for protection of that infrastructure, the public disclosure of which would threaten public safety.
- (20)

Records related to the procurement of or expenditures relating to security systems purchased with public funds shall be open.

- (21) When seeking to close information pursuant to this exception, the public governmental body shall affirmatively state in writing that disclosure would impair the public governmental body's ability to protect the security or safety of persons or real property, and shall in the same writing state that the public interest in nondisclosure outweighs the public interest in disclosure of the records.
- (22) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the receiving agency within ninety (90) days of submission to determine if retention of the document is necessary in furtherance of a state security interest. If retention is not necessary, the documents shall be returned to the nonpublic governmental body or destroyed.
- (23) Records that identify the configuration of components or the operation of a computer, computer system, computer network, or telecommunications network, and would allow unauthorized access to or unlawful disruption of a computer, computer system, computer network, or telecommunications network of a public governmental body. This exception shall not be used to limit or deny access to otherwise public records in a file, document, data file or database containing public records. Records related to the procurement of or expenditures relating to such computer, computer system, computer network, or telecommunications network, including the amount of moneys paid by, or on behalf of, a public governmental body for such computer, computer system, computer network, or telecommunications network shall be open.
- (24) Credit card numbers, personal identification numbers, digital certificates, physical and virtual keys, access codes or authorization codes that are used to protect the security of electronic transactions between a public governmental body and a person or entity doing business with a public governmental body. Nothing in this section shall be deemed to close the record of a person or entity using a credit card held in the name of a public governmental body or any record of a transaction made by a person using a credit card or other method of payment for which reimbursement is made by a public governmental body.
- (25) Records submitted by an individual, corporation, or other business entity to a public institution of higher education in connection with a proposal to license intellectual property or perform sponsored research and which contains sales projections or other business plan information the disclosure of which may endanger the competitiveness of a business.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-263. - Records pertaining to internal investigations and investigations of allegedly illegal conduct.

In order to allow the fullest cooperation by employees and members of the public in investigation of matters wherein an employee of the city is alleged to have engaged in any form of misconduct, all files, records and documents relating to investigations of allegations of misconduct by city employees will be considered to be personnel records and shall be closed records under the custody of the respective department head or personnel office.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-264. - Records pertaining to medical condition or history.

All information obtained by the city regarding medical examinations, medical condition or medical history of city employees or job applicants, if retained by the city, shall be collected and maintained on separate forms and in separate medical files and shall be treated as closed and confidential records, except that:

- (1) Supervisors and managers may be informed regarding necessary restrictions on the work duties of employees and necessary accommodations;
- (2) First aid and safety personnel may be informed, when appropriate, if the information reflects the existence of a disability which might require emergency treatment; or
- (3) Government officials investigating compliance with state or federal law pertaining to treatment of persons with disabilities may be allowed access to such records.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-265. - Records containing confidential, proprietary or private information.

- (a) In order to protect reasonable expectations of privacy on the part of persons having dealings with the city, city records containing information or entries of a personal, confidential, private or proprietary nature, including, but not limited to, income, sales data, financial circumstances, household and family relationships, Social Security numbers, dates of birth, insurance information and other information which reasonable persons generally regard as private and not a customary subject for public discourse, which information or entries have been provided to the city by one complying with regulations requiring the disclosure of such information, shall be excised from copies of city records disclosed or provided to members of the public other than those persons to whom the information or entries pertain. Persons desiring access to information or entries excised from such records may file a supplementary written request with the city clerk for disclosure of material to be specified in the request, which request should state:
  - (1) Whether or not the requesting party has informed persons to whom the requested information pertains of the request; and
  - (2) All reasons why the requesting party believes disclosure by the city of the specified information is in the public interest.
- (b) The city clerk may afford all interested parties, including the persons to whom the information pertains, a reasonable time within which to comment on the requested disclosure prior to acting further on the request. If an interested person objects to the disclosure of the requested information, the city clerk may conduct a hearing at which all interested parties may be heard. At such hearing the clerk shall consider, among such other factors as may be reasonable and relevant:
  - (1) The requirements and intent of state law, city ordinances and this policy.
  - (2) The legitimate expectations of privacy on the part of interested parties.
  - (3) The personal, confidential, private or proprietary nature of the information at issue.
  - (4) Whether the information was obtained by the city under compulsion of law or was freely and voluntarily provided by the persons objecting to the disclosure; and
  - (5) The public purposes to be served by disclosure of the requested information.

If the city clerk determines that disclosure is legally required or would otherwise serve the best interests of the public and that such requirements or purpose outweigh the legitimate concerns or interest of the persons to whom the information pertains, the clerk shall provide the requested information to the requesting party.

- (c) In addition to or in lieu of the hearing described above, the city clerk may afford all interested parties a reasonable opportunity to seek judicial review of or relief from the proposed disclosure. The city clerk may also utilize the procedures for judicial determination and/or opinion solicitation provided in Section 2-142.
- (d) Records and information that have been closed pursuant to the provisions of this chapter, RSMo. Ch. 610, and other relevant state and federal laws and regulations are to be treated as confidential by all employees and elected and appointed officials of the city.
  - (1) It shall be grounds for disciplinary action for any employee to (1) violate the confidentiality relating to such records or information; (2) copy or remove closed and/or confidential information without the specific consent of the custodian thereof or in the normal course of performing such employee's duties for the city; (3) provide or discuss closed records or confidential information with any person other than as a necessary part of performing such employee's duties for the city, or (4) divulge, discuss or disclose information or records addressed in any closed meeting of a public governmental body, other than as a necessary part of performing such employee's duties for the city.
  - (2) Elected and appointed officials are also expected to maintain the same strict standards of confidentiality required of employees. Breach of the confidentiality standards established by this article and required of employees in this section may be grounds for removal from office or other sanctions as may be deemed appropriate by the body of which such official is a member or by the city council.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-266. - Notices of meetings.

- (a) Each public governmental body shall give notice of the time, date, place, and tentative agenda of each meeting, in a manner reasonably calculated to advise the public of the matters to be considered, and if the meeting will be conducted by telephone or other electronic means, the notice of the meeting shall identify the mode by which the meeting will be conducted and the designated location where the public may observe and attend the meeting. If a public body plans to meet by Internet chat, Internet message board, or other computer link, it shall post a notice of the meeting on its website in addition to its principal office and shall notify the public how to access that meeting. Reasonable notice shall include making available copies of the notice to any representative of the news media who requests notice of meetings of a particular public governmental body concurrent with the notice being made available to the members of the particular governmental body and posting the notice on a bulletin board at city hall or other prominent place which is easily accessible to the public and clearly designated for that purpose at the city hall.
- (b) The notice shall be given at least twenty-four (24) hours, exclusive of weekends and holidays when the city hall is closed, prior to the commencement of any meeting of a governmental body unless for good cause such notice is impossible or impractical, in which case as much notice as is reasonably possible shall be given.
- (c) When it is necessary to hold a meeting on less than twenty-four (24) hours' notice, or at a place that is not reasonably accessible to the public, or at a time that is not reasonably convenient to the public, the nature of the good cause justifying that departure from the normal requirements shall be stated in the minutes.
- (d)

A formally constituted subunit of a parent governmental body may conduct a meeting without notice as required by this section during a lawful meeting of the parent governmental body, a recess in that meeting, or immediately following that meeting, if the meeting of the subunit is publicly announced at the parent meeting and the subject of the meeting reasonably coincides with the subjects discussed or acted upon by the parent governmental body.

- (e) A public body shall allow for the recording by audiotape, videotape, or other electronic means of any open meeting. A public body may establish guidelines regarding the manner in which such recording is conducted so as to minimize disruption to the meeting. No audio recording of any meeting, record, or vote closed pursuant to the provisions of RSMo. § 610.021 shall be allowed without permission of the public body; any person who violates this provision shall be guilty of an ordinance violation and punished by imprisonment for a period not to exceed fifteen (15) days, a fine not to exceed three hundred dollars (\$300.00), or by both such fine and imprisonment.
- (f) If another provision of law requires a manner of giving specific notice of a meeting, hearing or an intent to take action by a governmental body, compliance with that section shall constitute compliance with the notice requirements of this section.
- (g) A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote or abstinence if not voting to the name of the individual member of the public governmental body.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-267. - Closed meetings.

- (a) A public governmental body proposing to hold a closed meeting or vote may do so by either:
  - (1) Giving notice of same pursuant to the provisions of this article along with reference to the specific exception allowing such a closed meeting under state law; or
  - (2) Upon an affirmative public vote of the majority of a quorum of the public governmental body. The vote of each member of the public governmental body on the question of closing a public meeting or vote and the specific reason for closing that public meeting or vote by reference to the specific exception allowing such a closed meeting under state law shall be announced publicly at an open meeting of the governmental body and entered into the minutes.
- (b) Any meeting or vote closed pursuant to RSMo. § 610.021, shall be closed only to the extent necessary for the specific reason announced to justify the closed meeting or vote. Public governmental bodies shall not discuss any business in a closed meeting, record or vote which does not directly relate to the specific reason announced to justify the closed meeting or vote. Public governmental bodies holding a closed meeting shall close only an existing portion of the meeting facility necessary to house the members of the public governmental body in the closed session, allowing members of the public to remain to attend any subsequent open session held by the public governmental body following the closed session.
- (c) In the event any member of a public governmental body makes a motion to close a meeting, or a record, or a vote from the public and any other member believes that such motion, if passed, would cause a meeting, record or vote to be closed from the public in violation of any provision in RSMo. Ch. 610, or this article such latter member shall state his or her objection to the motion at or before the time the vote is taken on the motion. The public governmental body shall enter in the minutes of the public governmental body any objection made pursuant to this subsection. Any member making such

an objection shall be allowed to fully participate in any meeting, record or vote that is closed from the public over the member's objection. In the event the objecting member also voted in opposition to the motion to close the meeting, record or vote at issue, the objection and vote of the member as entered in the minutes shall be an absolute defense to any claim filed against the objecting member pursuant to RSMo. Ch. 610.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-268. - Journals of meetings and records of voting.

- (a) A journal or minutes of open and closed meetings shall be taken and retained by the public governmental body, including, but not limited to, a record of any votes taken at such meeting. The minutes shall include the date, time, place, members present, members absent and a record of any votes taken.
- (b) All votes by members of a public governmental body at any meeting shall be recorded. When a roll call vote is taken, the minutes shall attribute each "yea" and "nay" vote, or abstinence if not voting, to the name of the individual member of the body. Any votes taken during a closed meeting shall be taken by roll call and the minutes of the closed meeting, sufficient to reflect the vote pursuant to this subsection shall be recorded. All votes taken by roll call in meetings of a public governmental body consisting of members who are all elected, and any committee established by a public governmental body, shall be cast by members of the public governmental body who are physically present and in attendance at the meeting. When it is necessary to take votes by roll call in a meeting of the public governmental body due to an emergency of the public body with a quorum of the members of the public body physically present and in attendance and less than a quorum of the members of the public governmental body participating via telephone, facsimile, Internet, or any other voice or electronic means, the nature of the emergency of the public body justifying that departure from the normal requirements shall be stated in the minutes. Where such emergency exists, the votes taken shall be regarded as if all members were physically present and in attendance at the meeting.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-269. - Accessibility of meetings.

Each meeting shall be held at a place reasonably accessible to the public, and of sufficient size to accommodate the anticipated attendance by members of the public, and at a time reasonably convenient to the public, unless for good cause such a place or time is impossible or impractical. Every reasonable effort shall be made to provide access to the meeting to handicapped or disabled individuals.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-270. - Segregation of exempt material.

If a public record contains material which is not exempt from disclosure as well as material which is exempt from disclosure, the custodian shall separate the exempt and nonexempt material and make the nonexempt material available for examination and copying in accord with the policies provided herein. When designing a public record the custodian shall, to the extent practicable, facilitate a separation of exempt from nonexempt information. If the separation is readily apparent to a person requesting to inspect or receive copies of the form, the custodian shall generally describe the material exempted unless that description would reveal the contents of the exempt information and thus defeat the purpose of the exemption.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-271. - Custodian designated; response to request for access to records.

- (a) The city clerk shall be the custodian of records and shall be responsible for maintenance and control of all records. The mayor may designate deputy custodians in operating departments of the city and such other departments or offices as the mayor may determine. Deputy custodians shall conduct matters relating to public records and meetings in accord with the policies enumerated herein.
- (b) Except as otherwise provided by law, the city shall provide access to and, upon request, furnish copies of the city's public records subject to the provisions of the Code of Ordinances relating to copying fees. No person shall remove original public records from the city hall or from the office of the custodian of records without written permission of the custodian. No public governmental body shall grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record unless the granting of such right is necessary to facilitate coordination with, or uniformity among, industry regulators having similar authority.
- (c) The custodian of records may require persons seeking access to public records to submit such request in writing and/or on a form designated by the custodian for such purpose. Such written request shall be sufficiently particular to reasonably apprise the custodian of the records sought.
- (d) Each request for access to a public record shall be acted upon as soon as possible, but in no event later than the end of the third business day following the date the request is received by the custodian of records. If records are requested in a certain format, the public body shall provide the records in the requested format, if such format is available. If access to the public record is not granted immediately, the custodian shall give a detailed explanation of the cause for further delay and the place and earliest time and date that the record will be available for inspection. This period for document production may exceed three (3) days for reasonable cause.
- (e) If a request for access is denied, the custodian of records shall provide, upon request, a written statement of the grounds for such denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester no later than the end of the third business day following the date that the request for the statement is received.
- (f) Any member of a public governmental body who transmits any message relating to public business by electronic means shall also concurrently transmit that message to either the member's public office computer or the custodian of records in the same format. The provisions of this subsection shall only apply to messages sent to other members of that body so that, when counting the sender, a majority of the body's members are copied. Any such message received by the custodian or at the member's office computer shall be a public record, subject, however, to the exceptions for closed records as provided by law.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-272. - Procedures for resolving questions of public accessibility.

A public governmental body or record custodian in doubt about the legality of closing a particular meeting, record or vote may, subject to approval by the city council bring suit in the Circuit Court for the County of St. Louis to ascertain the propriety of such action. In addition, subject to approval by the city council, the public governmental body or custodian may seek a formal opinion of the attorney general or an attorney for the city regarding the propriety of such action. In such events, the proposed closed meeting or public access to the record or vote shall be deferred for a reasonable time pending the outcome of the actions so taken.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-273. - Fees.

- (a) The custodian shall charge ten cents (\$0.10) per page for a paper copy not larger than nine (9) by fourteen (14) inches, plus an hourly fee for duplicating time not to exceed the average hourly rate of pay for clerical staff of the city. Each side of a double-sided document shall constitute a copy. Research time required for fulfilling records requests may be charged at the actual cost of research time. Prior to producing copies of the requested records, the person requesting the records may request the city to provide an estimate of the cost to the person requesting the records. The custodian shall receive (or may require) payment prior to duplicating and/or searching for documents.
- (b) Fees for providing access to public records maintained on computer facilities, recording tapes or disks, video tapes or films, pictures, maps, slides, graphics, illustrations or similar audio or visual items or devices, and for paper copies larger than nine (9) by fourteen (14) inches shall include only the cost of copies, staff time, which shall not exceed the average hourly rate of pay for staff of the city required for making copies and programming, if necessary, and the disk or tape, or other medium used for the duplication. Fees for maps, blueprints, or plats that require special expertise to duplicate may include the actual rate of compensation for the trained personnel required to duplicate such maps, blueprints, or plats. If programming is required beyond the customary and usual level to comply with a request for records or information, the fees for compliance may include the actual costs of such programming.

(Ord. No. 1075, § 1, 7-21-15)

Secs. 2-274—2-300. - Reserved.

DIVISION 2. - LAW ENFORCEMENT ARREST REPORTS AND RECORDS

Sec. 2-301. - Definitions.

As used in this division, the following terms shall have the following definitions:

*Arrest:* An actual restraint of the person of the defendant, or by his/her submission to the custody of the officer, under authority of a warrant or otherwise for a criminal violation which results in the issuance of a summons or the person being booked.

*Arrest report:* A record of a law enforcement agency of an arrest and of any detention or confinement incident thereto together with the charge therefor.

*Inactive:* An investigation in which no further action will be taken by a law enforcement agency or officer for any of the following reasons:

- (1) A decision by the law enforcement agency not to pursue the case.
- (2) Expiration of the time to file criminal charges pursuant to the applicable statute of limitations, or ten (10) years after the commission of the offense, whichever date earliest occurs.
- (3) Finality of the convictions of all persons convicted on the basis of the information contained in the investigative report, by exhaustion of or expiration of all rights of appeal of such persons.

*Incident report:* A record of a law enforcement agency consisting of the date, time, specific location, name of the victim and immediate facts and circumstances surrounding the initial report of a crime or incident, including any logs of reported crimes, accidents and complaints maintained by that agency.

*Investigative report:* A record, other than an arrest or incident report, prepared by personnel of a law enforcement agency, inquiring into a crime or suspected crime, either in response to an incident report or in response to evidence developed by law enforcement officers in the course of their duties.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-302. - Police department records.

- (a) The police department of the city shall maintain records of all incidents reported to the police department, and investigations and arrests made by the police department. All incident reports and arrest reports shall be open records. Notwithstanding any other provision of law other than the provisions of subsection (c) of this section or RSMo. § 320.083, investigative reports of the police department are closed records until the investigation becomes inactive. If any person is arrested and not charged with an offense against the law within thirty (30) days of the person's arrest, the arrest report shall thereafter be a closed record except that the disposition portion of the record may be accessed except as provided in Section 2-154.
- (b) Except as provided in subsections (c) and (d) of this section, if any portion of a record or document of a police department officer or the police department, other than an arrest report, which would otherwise be open, contains information that is reasonably likely to pose a clear and present danger to the safety of any victim, witness, undercover officer, or other person; or jeopardize a criminal investigation, including records which would disclose the identity of a source wishing to remain confidential or a suspect not in custody; or which would disclose techniques, procedures or guidelines for police department investigations or prosecutions, that portion of the record shall be closed and shall be redacted from any record made available pursuant to this article.
- (c) Any person, attorney for a person, or insurer of a person involved in any incident or whose property is involved in an incident, may obtain any records closed pursuant to this section or Section 2-154 for purposes of investigation of any civil claim or defense, as provided by this subsection. Any individual, his/her attorney or insurer, involved in an incident or whose property is involved in an incident, upon written request, may obtain a complete unaltered and unedited incident report concerning the incident, and may obtain access to other records closed by the police department pursuant to this section. Within thirty (30) days of such request, the police department shall provide the requested material or file a motion pursuant to this subsection with the circuit court having jurisdiction over the police department stating that the safety of the victim, witness or other individual cannot be reasonably ensured, or that a criminal investigation is likely to be jeopardized. Pursuant to RSMo. § 610.100(4), if, based on such motion, the court finds for the police department, the court shall either order the record closed or order such portion of the record that should be closed to be redacted from any record made available pursuant to this subsection.
- (d) The victim of an offense as provided in RSMo. Ch. 566, may request that his/her identity be kept confidential until a charge relating to such incident is filed.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-303. - Criminal background check completed without a fee, when.

Notwithstanding any other provision of law to the contrary, whenever a criminal background check is requested in connection with gaining employment, housing or any other services or benefit of any homeless former member of the organized militia or the Armed Forces of the United States who has been honorably discharged, such background check shall be completed and transmitted to the requesting party

without any fee or other compensation for such background check or copy of any relevant public record pertaining to such request. For purposes of this section "homeless" means an involuntary state characterized by a lack of housing or shelter.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-304. - Effect of nolle pros, dismissal and suspended imposition of sentence on records.

- (a) If the person arrested is charged but the case is subsequently nolle prossed, dismissed, or the accused is found not guilty, or imposition of sentence is suspended in the court in which the action is prosecuted, official records pertaining to the case shall thereafter be closed records when such case is finally terminated except that the disposition portion of the record may be accessed except as provided in Section 2-154. If the accused is found not guilty due to mental disease or defect pursuant to RSMo. § 552.030, official records pertaining to the case shall thereafter be closed records upon such findings, except that the disposition may be accessed only by law enforcement agencies, child care agencies, facilities as defined in RSMo. § 198.006, and in-home services provider agencies as defined in RSMo. § 660.250, in the manner established by Section 2-154.
- (b) If the person arrested is charged with an offense found in RSMo. Ch. 566, §§ 568.045, 568.050, 568.060, 568.065, 568.080, 568.090, or 568.175, and an imposition of sentence is suspended in the court in which the action is prosecuted, the official records pertaining to the case shall be made available to the victim for the purpose of using the records in his or her own judicial proceeding, or if the victim is a minor to the victim's parents or guardian, upon request.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-305. - Public access of closed arrest records.

- (a) Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and RSMo. § 43.507. They shall be available to the sentencing advisory commission created in RSMo. § 558.019, for the purpose of studying sentencing practices, and only to courts, law enforcement agencies, child care agencies, department of revenue for driving record purposes, facilities as defined in RSMo. § 198.006, in-home services provider agencies as defined in RSMo. § 660.250, the division of workers' compensation, for the purposes of determining eligibility for crime victims' compensation pursuant to RSMo. §§ 595.010—595.075, and federal agencies for purposes of prosecution, sentencing, parole consideration, criminal justice employment, child care employment, nursing home employment and to federal agencies for such investigative purposes as authorized by law or presidential executive order. These records shall be made available for the above purposes regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes. All records which are closed records shall be removed from the records of the police department and municipal court which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.
- (b) As used in this section, the term "child care"; includes providers and youth services agencies as those terms are defined in RSMo. § 43.540, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-306. - Arrest record expunged, requirements.

- (a) Notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to RSMo. § 43.503 may be expunged if:
- (1) The court determines that the arrest was based on false information and the following conditions exist:
    - a. There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense;
    - b. No charges will be pursued as a result of the arrest; and
    - c. The subject of the arrest did not receive a suspended imposition of sentence for the offense for which the arrest was made or for any offense related to the arrest; or
  - (2) The court determines the person was arrested for, or was subsequently charged with, a misdemeanor offense of RSMo. Ch. 303 or any moving violation as the term moving violation is defined under RSMo. § 302.010, except for any intoxication-related traffic offense as intoxication-related traffic offense is defined under RSMo. § 577.023 and:
    - a. Each such offense or violation related to the arrest was subsequently nolle prossed or dismissed, or the accused was found not guilty of each offense or violation; and
    - b. The person is not a commercial driver's license holder and was not operating a commercial motor vehicle at the time of the arrest.
- (b) A record of arrest shall only be eligible for expungement under this section if:
- (1) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions; and
  - (2) No civil action is pending relating to the arrest or the records sought to be expunged.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-307. - Procedure to expunge, supreme court to promulgate rules—similar to small claims.

- (a) Any person who wishes to have a record of arrest expunged pursuant to RSMo. § 610.122 may file a verified petition for expungement in the civil division of the circuit court in the county of the arrest as provided in subsection (d) of this section. The petition shall include the following information or shall be dismissed if the information is not given:
- (1) The petitioner's:
    - a. Full name;
    - b. Sex;
    - c. Race;
    - d. Date of birth;
    - e. Driver's license number;
    - f. Social Security number; and
    - g. Address at the time of the arrest;
  - (2) The offense charged against the petitioner;
  - (3) The date the petitioner was arrested;
  - (4) The name of the county where the petitioner was arrested and if the arrest occurred in a municipality, the name of the municipality;
  - (5) The name of the agency that arrested the petitioner;

- (6) The case number and court of the offense;
- (7) Petitioner's fingerprints on a standard fingerprint card at the time of filing a petition to expunge a record that will be forwarded to the central repository for the sole purpose of positively identifying the petitioner.
- (b) The petition shall name as defendants all law enforcement agencies, courts, prosecuting attorneys, central state depositories of criminal records or others who the petitioner has reason to believe may possess the records subject to expungement. The court's order shall not affect any person or entity not named as a defendant in the action.
- (c) The court shall set a hearing on the matter no sooner than thirty (30) days from the filing of the petition and shall give reasonable notice of the hearing to each official or agency or other entity named in the petition.
- (d) If the court finds that the petitioner is entitled to expungement of any record that is the subject of the petition, it shall enter an order directing expungement. Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. A copy of the order shall be provided to each agency identified in the petition pursuant to subsection (2) of this section.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-308. - Beginning January 1, 2017—Failure to comply with expungement order, penalty—Knowingly using expunged record for gain, penalty.

- (a) A person subject to an order of the court in RSMo. § 610.123(4) who knowingly fails to expunge or obliterate, or releases arrest information which has been ordered expunged pursuant to RSMo. § 610.123 is guilty of a class B misdemeanor.
- (b) A person subject to an order of the court in RSMo. § 610.123(4) who, knowing the records have been ordered expunged, uses the arrest information for financial gain is guilty of a class E felony.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-309. - Until December 31, 2016—Failure to comply with expungement order, penalty—Knowingly using expunged record for gain, penalty.

- (a) A person subject to an order of the court in RSMo. § 610.123(4) who knowingly fails to expunge or obliterate, or releases arrest information which has been ordered expunged pursuant to RSMo. § 610.123 is guilty of a class B misdemeanor.
- (b) A person subject to an order of the court in RSMo. § 610.123(4) who, knowing the records have been ordered expunged, uses the arrest information for financial gain is guilty of a class D felony.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-310. - "911" telephone reports.

Except as provided by this section, any information acquired by the police department by way of a complaint or report of a crime made by telephone contact using the emergency number, "911", shall be inaccessible to the general public. However, information consisting of the date, time, specific location and immediate facts and circumstances surrounding the initial report of the crime or incident shall be considered to be an incident report and subject to Section 2-152. Any closed records pursuant to this

section shall be available upon request by law enforcement agencies or the division of workers' compensation or pursuant to a valid court order authorizing disclosure upon motion and good cause shown.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-311. - Daily log or record maintained by police department of crimes, accidents or complaints; public access to certain information.

The City of Black Jack's Police Department, if it maintains a daily log or record that lists suspected crimes, accidents, or complaints, shall make available the following information for inspection and copying by the public:

- (1) The time, substance, and location of all complaints or requests for assistance received by the police department;
- (2) The time and nature of the police department's response to all complaints or requests for assistance; and
- (3) If the incident involves an alleged crime or infraction:
  - a. The time, date and location of occurrence;
  - b. The name and age of any victim, unless the victim is a victim of a crime under RSMo. Ch. 566;
  - c. The factual circumstances surrounding the incident; and
  - d. A general description of any injuries, property or weapons involved.

(Ord. No. 1075, § 1, 7-21-15)

Sec. 2-312. - Beginning January 1, 2017—Alcohol-related driving offenses, expunged from records, when—Procedures, effect—Limitations.

- (a) After a period of not less than ten (10) years, an individual who has pleaded guilty or has been convicted for a first intoxication-related traffic offense or intoxication-related boating offense which is a misdemeanor or a county or city ordinance violation and which is not a conviction for driving a commercial motor vehicle while under the influence of alcohol and who since such date has not been convicted of any intoxication-related traffic offense or intoxication-related boating offense may apply to the court in which he or she pled guilty or was sentenced for an order to expunge from all official records all recordations of his or her arrest, plea, trial or conviction.
- (b) If the court determines, after hearing, that such person has not been convicted of any subsequent intoxication-related traffic offense or intoxication-related boating offense, has no other subsequent alcohol-related enforcement contacts as defined in RSMo. § 302.525, and has no other intoxication-related traffic offense or intoxication-related boating offenses or alcohol-related enforcement actions pending at the time of the hearing on the application, the court shall enter an order of expungement.
- (c) Upon granting of the order of expungement, the records and files maintained in any administrative or court proceeding in an associate or circuit division of the circuit court under this section shall be confidential and only available to the parties or by order of the court for good cause shown. The effect of such order shall be to restore such person to the status he or she occupied prior to such arrest, plea or conviction and as if such event had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of any law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrest, plea, trial, conviction or expungement in response to any inquiry made of him or her for any purpose

whatsoever and no such inquiry shall be made for information relating to an expungement under this section. A person shall only be entitled to one (1) expungement pursuant to this section. Nothing contained in this section shall prevent the director from maintaining such records as to ensure that an individual receives only one (1) expungement pursuant to this section for the purpose of informing the proper authorities of the contents of any record maintained pursuant to this section.

- (d) The provisions of this section shall not apply to any individual who has been issued a commercial driver's license or is required to possess a commercial driver's license issued by this state or any other state.

(Ord. No. 1075, § 1, 7-21-15)

## Chapter 3 - ALARM SYSTEMS CODE<sup>[1]</sup>

*Footnotes:*

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**State Law reference**— Municipal licensing and regulatory authority, RSMo. § 94.110.

## ARTICLE I. - IN GENERAL

### Sec. 3-1. - Short title.

This chapter shall be known and cited as the "Alarm Systems Code."

(Ord. No. 206, § 1, 2-20-79)

### Sec. 3-2. - Scope.

The provisions of this chapter shall apply to the area within the incorporated area of the city.

(Ord. No. 206, § 2, 2-20-79)

### Sec. 3-3. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alarm business:* The business of any person who sells, leases, maintains, services, repairs, alters, replaces, moves or installs any alarm system or causes same to be sold, leased, maintained, serviced, repaired, altered, replaced, moved or installed in or on any building, structure, facility or premises.

*Alarm system:* Any mechanical or electric device which is designed to be actuated manually or automatically upon the detection of any unauthorized entry, intrusion, or other emergency in or on any building, structure, facility or premises through the emission of a sound or transmission of a signal or message.

*Alarm user:* A person who uses an alarm system to protect any building, structure, facility or premises.

*Automatic signaling device:* An alarm system which automatically dials a specific telephone number and transmits an emergency message by recording over regular telephone lines when actuated.

*Department:* The department of police of the county.

*Direct signal alarm system:* An alarm system which provides for a special telephone line that is directly connected to department and has an outlet at department which emits a sound or transmits a signal or both when actuated.

*Director:* The director of licenses of the county, and his duly authorized agent.

*False alarm:* Any activation of an alarm system intentionally or by inadvertence, negligence or unintentional act to which the department responds, including activation caused by the malfunction of the alarm system, except that the following shall not be considered false alarms:

- (1) When the superintendent determines that an alarm has been caused by the malfunction of the indicator at the department;
- (2) When the superintendent determines that an alarm has been caused by damage, testing or repair of telephone equipment or lines by the telephone company provided that such incidents are promptly reported to the telephone company;
- (3) When an alarm is caused by an attempted and unauthorized or illegal entry, of which there is visible evidence;
- (4) When an alarm is intentionally caused by the resident acting under a reasonable belief that a need exists to call the department;
- (5) When an alarm is followed by a call to the department cancelling the alarm by giving proper information, prior to the arrival of the department at the source of the alarm.

*Licensee:* A person who has obtained an alarm business license under the provisions of this chapter.

*Superintendent:* The superintendent of the department of police of the county, and his duly authorized agents.

(Ord. No. 206, § 3, 2-20-79)

Sec. 3-4. - Instructions on operation.

A licensee who sells, leases, installs, alters or replaces an alarm system shall furnish the alarm user with written instructions as to how the system operates.

(Ord. No. 206, § 7, 2-20-79)

Sec. 3-5. - Repair and maintenance service required.

A licensee shall make available repair and maintenance services, including emergency services during nonbusiness hours, to alarm users for whom the licensee has made installations. At the time of installation, the licensee shall furnish to the alarm user a repair service information card. This card shall inform the alarm user of the services available and include the telephone numbers to call for regular and emergency service.

(Ord. No. 206, § 8, 2-20-79)

Sec. 3-6. - Assignment, transfer of license; change in certain information.

- (a) A license issued under this chapter shall not be assigned or transferred.
- (b) A license shall notify the director of the following information within ten (10) days:
  - (1) Change of control and ownership or management of the alarm business;

- (2) Change in address or a new address of the alarm business;
- (3) Change of trade name of the alarm business;
- (4) Names of new employees, agents, corporate officers, partners or business associates;
- (5) Any change in the repair and maintenance services available by or through the licensee's alarm business.

(Ord. No. 206, § 9, 2-20-79)

Sec. 3-7. - Rules and regulations.

The director may establish, promulgate and enforce reasonable rules and regulations in order to administer and enforce the provisions of this chapter.

(Ord. No. 206, § 10, 2-20-79)

Sec. 3-8. - Power to investigate.

For the purpose of enforcing this chapter, the director shall have the power to make an investigation, and to the extent necessary for this purpose, he may examine a licensee or any other persons and shall have the power to compel the production of all relevant books, accounts, documents and other records.

(Ord. No. 206, § 12, 2-20-79)

Sec. 3-9. - False alarm service charge.

- (a) All false alarms to which the department responds shall result in a twenty-five dollar (\$25.00) fine.
- (b) Upon determination by the department that a false alarm has occurred, the city shall send a notice to the alarm user, notifying the alarm user of the determination and directing payment within thirty (30) days.
- (c) The city shall cancel any notice or fine upon satisfactory proof by the alarm user that a particular alarm falls within the exceptions enumerated in Section 3-3.
- (d) Willful refusal to pay the fine within thirty (30) days of notice shall constitute a violation of this chapter; but in any prosecution under Section 3-13 for violation of this provision, the city shall prove, in addition to the willful refusal to pay, that the fine was properly imposed.

(Ord. No. 206, § 14, 2-20-79; Ord. No. 294, § 1, 10-5-83; Ord. No. 549; § 1, 11-1-94)

**Cross reference—** False fire or police alarm prohibited, § 11-85.

Sec. 3-10. - Automatic dialing devices.

No person shall install or use an automatic dialing device which is programmed to dial the department's telephone number.

(Ord. No. 206, § 15, 2-20-79)

Sec. 3-11. - Direct signal alarm systems.

- (a) All direct signal alarm systems which connect to the department are prohibited except for federal institutions which are required to have such an alarm system under federal law.
- (b) Any federal institution which is permitted to have a direct signal alarm system shall be required to pay all costs for the installation, maintenance and repair of the alarm system and shall be subject to the provisions of Section 3-9 of this Code.

(Ord. No. 206, § 16, 2-20-79)

Sec. 3-12. - Audible alarms.

- (a) An "audible alarm" is an alarm equipped with an exterior sound-producing device such as a gong, buzzer, siren, bell or horn.
- (b) No person shall install or use an audible alarm without a thirty (30) minute timer.

(Ord. No. 206, § 17, 2-20-79)

Sec. 3-13. - Violations and penalties.

- (a) Any person who violates or causes a violation of any provision of this chapter shall be guilty of an offense.
- (b) The municipal prosecutor may bring an action in the name of the city to restrain or prevent a violation of any provision of this chapter or any continuance of any such violation.

(Ord. No. 206, § 18, 2-20-79)

Secs. 3-14—3-30. - Reserved.

ARTICLE II. - LICENSE

Sec. 3-31. - Required.

- (a) No person shall engage or attempt to engage in the business of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving or installing alarm systems in or on any building or premises without a currently valid license issued pursuant to this chapter.
- (b) No license shall be required of a person who sells alarm systems at his place of business or by mail but neither installs, maintains, nor offers to install or maintain such system. For the purpose of this exception, maintenance does not include the repair under warranty of an alarm system without additional charge.

(Ord. No. 206, § 4, 2-20-79)

Sec. 3-32. - Application, issuance and renewal.

- (a) A person applying for a license or renewal thereof shall file a written verified application with the director on a form provided by the director which form shall require the following information:
  - (1) The name, address and telephone number of the applicant;
  - (2) The business or trade name, address and telephone number of the applicant:
    - a. If an unincorporated association, the names and addresses of the associates;
    - b. If a corporation, the corporation's registered name and the names and addresses of the officers of the corporation;
    - c. If an individual proprietorship, the name and address of the proprietor;
  - (3) The addresses of all offices of the alarm business in the county;
  - (4) The name and address of any employee, agent, corporate officer, partner or business associate whose position in the alarm business gives him access to information in the installation and use of alarm systems for alarm users;
  - (5) Specifications of the alarm systems to be dealt in;
  - (6) A copy of the instructions provided alarm users;
  - (7) A statement of repair and maintenance service to be made available to applicant's customers;
  - (8) Name and address of the person designated by the applicant to receive notice issued under this chapter;

- (9) Signature of the applicant.
- (b) A person applying for a renewal of a license shall file his application not less than ten (10) days before his license expires.
- (c) Upon the filing of a license application, the director shall conduct an investigation to determine whether the following requirements are satisfied:
  - (1) That the information contained in the license application is true;
  - (2) That the applicant for a license or an individual who is an employee, agent, corporate officer, partner or business associate of the applicant has not had a license revoked within one year immediately preceding the date the license application is filed or does not have a license that is currently suspended;
  - (3) That neither the applicant nor any employee, agent, corporate officer, partner or business associate whose position in the alarm business gives him access to information in the installation and use of alarm systems for alarm users, has been convicted of the following:
    - a. Any felony involving moral turpitude within the previous five (5) years;
    - b. Any misdemeanor involving moral turpitude within the previous two (2) years;
    - c. Repeated or continual violation of any provision of this chapter within the previous two (2) years.
  - (4) That the types of alarm systems, the instructions for the alarm systems and repair and maintenance services available through applicant's alarm business are in compliance with this chapter.
- (d) The director may request the department to assist the director in the investigation of a license application.
- (e) If the director determines that a license application satisfies the requirements prescribed by this section, the director shall issue a license; otherwise, the director shall deny the license application.
- (f) The director shall notify the applicant of the issuance of license, or denial of the license application. In the case of a denial of a license application the director shall notify the applicant by certified mail and include in the notice the reason for the denial and a statement informing the applicant of his right to a hearing if requested by the applicant within ten (10) days after receipt of the notice.
- (g) A license shall expire on the thirty-first day of December next succeeding issuance thereof except in the following instances:
  - (1) If an applicant timely applies for a license renewal in accordance with this section and the determination of the renewal request is delayed beyond the thirty-first of December, the licensee's license is extended pending the determination of the renewal request by the director;
  - (2) If an applicant's license has been suspended or revoked.
- (h) If an applicant is denied a license solely because an individual who is an employee, agent, corporate officer, partner or business associate of the applicant has been convicted of the offenses listed in paragraph (c)(3) above, or had a license revoked within one year immediately preceding the date the license application is filed, or has a license that is currently suspended, then said applicant, upon disassociation with said individual, may obtain a license upon reapplication.

(Ord. No. 206, § 5, 2-20-79)

Sec. 3-33. - Fees.

- (a) The annual fee for a license for an alarm business shall be fifty dollars (\$50.00).

- (b) The fee for issuing a duplicate license for one lost, destroyed or mutilated shall be ten dollars (\$10.00).

(Ord. No. 206, § 6, 2-20-79)

Sec. 3-34. - Suspension or revocation.

- (a) The director shall have the power to suspend a license for new installations, sales, leases or replacements of alarm systems for any one or more of the following reasons:
- (1) Attempted assignment or transfer of a license prohibited by Section 3-6 of this Code;
  - (2) Failure to notify the director of any changes as required under Section 3-6 of this Code;
  - (3) Failure to comply with any reasonable rule or regulations of the director;
  - (4) Failure to provide proper instructions as required by Section 3-4 of this Code;
  - (5) Failure to provide adequate repair and maintenance services as required by Section 3-5 of this Code;
  - (6) Installation or replacement of alarm systems not in accordance with Sections 3-10, 3-11 and 3-12 of this Code.
- (b) Suspension of a license may be for up to thirty (30) days.
- (c) A licensee is still licensed and is still required to provide repair and maintenance service during a suspension period, but no other alarm business shall be conducted.
- (d) The director shall revoke a license for any one or more of the following reasons:
- (1) Conviction of the licensee of any of the offenses listed in Section 3-32, paragraph (c)(3) of this Code, or the hiring of any person or the retention of any employee, agent, corporate officer, partner or business associate who is convicted for same and whose position in the alarm business gives him access to information in the installation of alarm systems for alarm users.
  - (2) Suspension of a license more than twice in any twelve-month period.
  - (3) The making of any false statement as to a material matter or the omission of any material fact in any application for license or any change in the information required under Section 3-6 of this Code.
- (e) After revocation of a license, a person may file a new application for a license pursuant to Section 3-32 of this Code.
- (f) No license shall be suspended or revoked until a licensee has been afforded an opportunity for a hearing before the director.
- (g) The director shall provide notice to the licensee of the hearing at least ten (10) days prior to the hearing. Notice shall be served either personally or by certified mail and shall state the date and place of hearing and a summary of the charges against the licensee.
- (h) A licensee shall be heard in his defense either in person or by counsel and may produce witnesses to testify in his behalf. A record of the hearing shall be made. The director shall make a report of his findings and decision. For the purpose of this chapter, the director may administer oaths, take testimony, subpoena witnesses and compel the production of books, papers, records and documents relevant to the investigation.

(Ord. No. 206, §§ 11, 13, 2-20-79)

Chapter 4 - ALCOHOLIC BEVERAGES<sup>[1]</sup>

*Footnotes:*

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**Cross reference—** Definitions and rules of construction generally, § 1-2; alcoholic beverages in parks, § 14-45; driving while under the influence of alcoholic beverages, § 20-268; driving with excessive blood alcohol content, § 20-269.

## ARTICLE I. - IN GENERAL

### Sec. 4-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Intoxicating liquor* as used in this chapter, shall mean and include alcohol for beverage purposes, alcoholic, spirituous, vinous, fermented, malt or other liquors, or combination of liquors, a part of which is spirituous, vinous or fermented, and all preparations or mixtures for beverage purposes, containing in excess of one-half of one percent by volume except for non-intoxicating beer as defined in this section 4-1. All beverages having an alcoholic content of less than one-half of one percent by volume shall be exempt from the provisions of this chapter.

*Managing officer* shall mean a person in a corporation's employ who is vested with the general control and superintendence of the premises for which the liquor license is issued.

*Non intoxicating beer* shall mean any beer manufactured from pure hops or pure extract of hops, and pure barley malt or other wholesome grains or cereals, and wholesome yeast, and pure water, and free from all harmful substances, preservatives and adulterants, and having an alcoholic content of more than one-half of one percent by volume and not exceeding three and two-tenths (3.2) percent by weight.

**State Law reference—** Similar provisions, RSMo. § 312.010(2).

*Premises* shall include that portion of any building in which a licensee hereunder has his place of business and any additional building or portion of any building used in connection therewith.

*Restaurant-bar* shall mean and include any establishment having a restaurant or similar facility on the premises at least fifty (50) percent of the gross income of which is derived from the sale of prepared meals or food consumed on such premises.

(Ord. No. 267, § 1, 4-20-82; Ord. No. 358, § 1, 4-1-86; Ord. No. 471, § 1, 6-18-91)

**State Law reference—** Similar provisions, RSMo. § 311.097.

### Sec. 4-2. - Enforcement.

It shall be the duty of the police officers of the city to see that the provisions of all ordinances of the city in regard to the sale of intoxicating liquor or nonintoxicating beer are obeyed, and to report to the marshal or chief of police any place where intoxicating liquor or nonintoxicating beer is sold at retail which is not kept in an orderly manner or in violation of any of the provisions of this chapter, or any person selling intoxicating liquor or nonintoxicating beer in the city without a license. It shall be the duty of the marshal or chief of police to report all such infractions immediately to the city council.

(Ord. No. 267, § 12, 4-20-82)

### Sec. 4-3. - Exemptions.

This chapter shall not apply to the possession by a druggist of:

- (1) Intoxicating liquor purchased by him from a licensed vendor under the Liquor Control Act of the state; or
- (2) Intoxicating liquor lawfully acquired and transported into the state by him pursuant to said act,

where in either of the aforesaid cases, such liquor is to be used in connection with the business of a druggist in compounding medicines or as a solvent or preservative. Additionally, this chapter shall not apply to the sale of intoxicating liquors by druggists on prescription from a regularly licensed physician.

(Ord. No. 267, § 2, 4-20-82)

**State Law reference**— Liquor Control Act, RSMo. Ch. 311.

Sec. 4-4. - Temporary license for sale by the drink may be issued to certain organizations.

- (a) Notwithstanding any other provision of this chapter, in lieu of a license issued annually, a temporary license for the sale of intoxicating liquor and non-intoxicating beer as defined in this chapter, for consumption on premises where sold, may be issued to any religious, school, civic, service, fraternal, veteran, political, governmental entities, charitable club or organization for the sale of intoxicating liquor and non-intoxicating beer at a picnic, bazaar, fair, or similar gathering. The temporary license shall be issued only for the day or days named therein, and it shall not authorize the sale of intoxicating liquor or non-intoxicating beer for more than seven (7) days by any such club or organization in any fiscal year of the city.
- (b) To secure the temporary license, the applicant shall complete a form provided by the city clerk, deputy city clerk, or collector. The applicant shall pay a fee of twenty-five dollars (\$25.00) for such temporary license, which fee shall be due and payable at the time the application is submitted.
- (c) If the event will be held on a Sunday, the temporary license shall not authorize the sale of intoxicating liquor or non-intoxicating beer on that day beginning earlier than 11:00 a.m.
- (d) At the same time that an applicant applies for a temporary license under the provisions of this section, the applicant shall notify the director of revenue of the State of Missouri of the holding of the event and by such notification, by certified mail, shall accept responsibility for the collection and payment of any applicable sales tax. Any sales tax due shall be paid to the director of revenue within fifteen (15) days after the close of the event, and failure to do so shall result in the levying of penalties as provided by state law.

(Ord. No. 792, § 1, 6-17-03)

Secs. 4-5—4-20. - Reserved.

ARTICLE II. - LICENSES<sup>[2]</sup>

*Footnotes:*

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**State Law reference**— Local licenses authorized, RSMo. §§ 311.220, 312.140.

Sec. 4-21. - Required.

It shall be unlawful for any person to sell, or expose for sale, in the city intoxicating liquor or non-intoxicating beer in any quantity without first obtaining a license from the city.

(Ord. No. 267, § 2, 4-20-82)

Sec. 4-22. - Sale limited to licensed premises.

Every license issued under the provisions of this chapter shall particularly describe the premises at which intoxicating liquor may be sold thereunder and such license shall not be deemed to authorize or permit the sale of intoxicating liquor at any place other than that described therein. A separate license shall be required for each place of business in which liquor is sold or dispensed, and shall cover only the sale of liquor at such place of business.

(Ord. No. 267, § 6.1, 4-20-82)

Sec. 4-23. - Keeping liquor not authorized by license.

It shall be unlawful for the holder of any license authorized by this chapter for the sale of any intoxicating liquor at retail by the drink for consumption on the premises where sold, to keep or secrete, or allow any other person to keep or secrete, in or upon the premises described in such license any intoxicating liquor other than the kind of liquor expressly authorized to be sold by such licensee.

(Ord. No. 267, § 6.4, 4-20-82)

Sec. 4-24. - License classes and fees.

- (a) Upon compliance with the provisions of this chapter, including payment of the pertinent license fee, a separate license may be issued for any of the following classes of sales of intoxicating liquor or non-intoxicating beer:
- (1) Sale of intoxicating liquor of all kinds at retail by the drink for consumption on premises where sold, including sale of intoxicating liquor in the original package. The license fee shall be four hundred and fifty dollars (\$450.00) per year.
  - (2) Sale of malt liquor containing at least three and two-tenths (3.2) percent but not more than five (5) percent alcohol by weight and light wines containing not in excess of fourteen (14) percent of alcohol by weight for consumption on the premises where sold, including sale of said malt liquor and light wine in the original package. The license fee shall be seventy-five dollars (\$75.00) per year.
  - (3) Sale of intoxicating liquor of all kinds at retail in the original package, not for consumption on the premises where sold. The license fee shall be one hundred and fifty dollars (\$150.00) per year.
  - (4) Sale of malt liquor containing at least three and two-tenths (3.2) percent but not more than five (5) percent alcohol by weight, at retail by the drink for consumption on the premises where sold. The license fee shall be seventy-five dollars (\$75.00) per year.
  - (5) Sale of non-intoxicating beer, containing an alcoholic content of more than one-half of one percent by volume and not exceeding three and two-tenths (3.2) percent by weight at retail in the original package not for consumption on the premises where sold. The license fee shall be twenty-two dollars and fifty cents (\$22.50) per year.
  - (6) Sale on Sunday pursuant by a restaurant-bar as defined herein and in RSMo 311.097, as amended, of intoxicating liquor of all kinds. The license fee shall be as follows:
    - (i) Full license pursuant to subparagraph (1) of this subsection (a)—Three hundred dollars (\$300.00) per year.
    - (ii) Beer and wine only, pursuant to subparagraph (2) of this subsection (a)—One hundred fifty dollars (\$150.00) per year.
    - (iii) Malt liquor only, pursuant to subparagraph (4) of this subsection (a)—Fifty dollars (\$50.00) per year.

The aforementioned annual license fees shall be in addition to those annual fees imposed generally for sale in each of the categories established in subparagraphs (1), (2), (4) and (5) of this subsection (a).

- (7) Sale on Sunday by a place of entertainment as defined herein and in RSMO 311.102, as amended, of intoxicating liquor or all kinds. The license fee shall be the same as those provided in subparagraph (6) of this subsection (a)

The aforementioned annual license fees shall be in addition to those annual fees imposed generally for sale in each of the categories established in subparagraphs (1), (2), (4) and (5) of this subsection (a).

- (8) Notwithstanding the provisions of Section 4-54, the holder of any license pursuant to subparagraphs (1)—(5) of this subsection (a), who is licensed to sell alcoholic beverages in the original package at retail, may also apply for a special license to sell the alcoholic beverages permitted to be sold under the provisions of his/her license granted pursuant to subparagraphs (1)—(5), in the original package at retail not to be consumed on the premises where sold, between the hours of 1:00 p.m. and midnight on Sundays. The special license fee shall be three hundred dollars (\$300.00) a year.

- (9) Any person who is licensed to sell intoxicating liquor in the original package for retail under subparagraph (3) of this subsection (a) may obtain an additional license to conduct wine tastings in the licensed premises. The annual license fee for the license shall be twenty-five dollars (\$25.00).

a. Nothing in this section shall be construed to permit the licensee to sell wine for on-premises consumption.

b. The licensee may not charge a fee to cover the expenses associated with the tasting event.

- (b) All license fees collected by the city clerk, or duly authorized deputy city clerk or collector, shall be accounted for and paid into the city treasury.
- (c) If the license is for less than one year, the fee shall be pro-rated for the number of months remaining in the licensed year.
- (d) The fees to be charged hereunder shall be taken in lieu of the proportionate part of any merchant's license fee and ad valorem tax for stock and sale of intoxicating liquors or non-intoxicating beer and the aggregate amount of sales thereof made by any licensee hereunder shall not be returned by such merchant for purposes of merchant's license or ad valorem tax, nor shall such stock or sales be included in the computation of any merchant's license or ad valorem tax.
- (e) Each license shall apply to the class for which issued, and it shall be unlawful to sell or expose for sale any intoxicating liquor or non-intoxicating beer except in the manner authorized in the license held by the licensee as issued hereunder.
- (f) Notwithstanding any other provision of this Article II, licenses, any person who is licensed to sell intoxicating liquor, malt liquor or non-intoxicating beer in the original package under any other provision of this Article II shall not sell malt liquor or non-intoxicating beer in individual bottles or cans apart from a package with at least six (6) bottles or cans, and no bottles or cans of malt liquor or non-intoxicating beer with a volume greater than or equal to twenty (20) fluid ounces shall be sold in any event.

(Ord. No. 267, §§ 3, 7, 4-20-82; Ord. No. 358, §§ 2, 3, 4-1-86; Ord. No. 471, §§ 2—4, 6-18-91; Ord. No. 511, § 1, 6-8-93; Ord. No. 922, § 1, 10-16-07; Ord. No. 985, § 1, 9-15-09; Ord. No. 987, § 1, 9-30-09; Ord. No. 1017, §§ 1, 2, 4-5-11; Ord. No. 1031, § 1, 3-20-12)

Sec. 4-25. - Application.

- (a) Applications for a license to sell intoxicating liquor or non-intoxicating beer shall be filed with the city clerk, or deputy city clerk or collector, on forms furnished by him. Each application shall be signed by the applicant. If the applicant is a joint venture, partnership or group other than a corporation, the application shall be made by all individuals who are members of such joint venture, partnership or group. If the applicant is a corporation, the application shall be made by a managing officer of the corporation. A corporate applicant shall state the names and addresses of its registered agents, officers and directors, the number of shares in the corporation owned by each and the percentage those shares bear to the total outstanding shares of the corporation; the names and addresses of the ten (10) principal stockholders of the corporation, the number of shares in the corporation owned by each and the percentage those shares bear to the total outstanding shares of the corporation. The signature of the applicant shall constitute an agreement that the applicant will assume responsibility for compliance with the provisions of this Code and the laws of the state regulating the sale of intoxicating liquor and non-intoxicating liquor beer by the drink. Applicants for a license to sell intoxicating liquor and non-intoxicating beer at retail by the drink between the hours of 12:00 noon and midnight on Sunday in addition to the above mentioned requirements must show in the application that the premises for which the license is desired is operated as a "restaurant-bar" and that the applicant already possesses a license to sell intoxicating liquor by the drink.
- (b) Each application shall contain a copy of the deed, lease or agreement by which the applicant is authorized to occupy the premises and shall state the address and describe the premises for which the liquor license is sought and state the name and address of the owner thereof and additional information requested by the city council.
- (c) Applications for licenses for consumption on the premises of intoxicating liquor shall be accompanied by a petition indicating consent by the signatories to the particular type of sale of intoxicating liquor for which the license is sought. The petition shall be signed by a majority of the persons, if any, owning property and a majority of the persons, if any, occupying or conducting any business on the main or surface floor within a radius of two hundred (200) feet plus one-half of the width of the front of the premises from the center of the front of the premises projected to the street. The requirement for said petition may be waived by the city council if the applicant is renewing a license and a majority of the city council consents.

(Ord. No. 267, §§ 4.1.1, 4.1.2, 4.3.2, 4-20-82; Ord. No. 471, § 5, 6-18-91)

**State Law reference—** Location restrictions authorized, RSMo. § 311.080.

Sec. 4-26. - Limitation on the number of licenses.

- (a) No further liquor licenses shall be issued by the city if such issuance would bring the total number of licensed premises within the city to a ratio greater than one (1) licensed premises for each one thousand (1,000) residents of the city. The number of residents is determined by the results of the latest national census relative to the city.
- (b) For purposes of this Section 4-26, if a licensed premises has more than one (1) liquor license, that licensed premises shall be counted as only one (1) licensed premises for purposes of Section 4-26(a).

(Ord. No. 267, § 4.4, 4-20-82; Ord. No. 669, § 1, 12-7-99)

Sec. 4-27. - Compliance with fire, building, etc., ordinances as prerequisite.

A liquor or nonintoxicating beer license shall not be issued for any premises which do not comply with the fire, building, health and safety ordinances of the city.

(Ord. No. 267, § 4.1.2, 4-20-82)

Sec. 4-28. - Reserved.

**Editor's note—** Ord. No. 444, § 1, adopted March 20, 1990, repealed former § 4-28, relative to bond requirements, which derived from Ord. No. 267, § 4.1.3, adopted April 20, 1982.

Sec. 4-29. - Special provisions for restaurant-bar licenses.

- (a) Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter and a Class 1 license pursuant to Section 4-24, and who now or hereafter meets the requirements of and complies with the provisions of this chapter may apply for, and the council may issue, a license to sell intoxicating liquor, as defined in this chapter between the hours of 11:00 a.m. on Sunday and midnight on Sunday by the drink at retail for consumption on the premises of any restaurant-bar as described in the application. As used in this section, the term "restaurant-bar" means any establishment having a restaurant or similar facility on the premises at least fifty (50) percent of the gross income of which is derived from the sale of prepared meals or food consumed on such premises or which has an annual gross income of at least two hundred seventy-five thousand dollars (\$275,000.00) from the sale of prepared meals or food consumed on such premises.
- (b) Any applicant for the license described in this section, in addition to complying with all other requirements of this chapter, to include the prior issuance of a Class 1 license, shall pay a license fee for a Class 5 license as set out in Section 4-24(a)(5) of this chapter.
- (c) Any new restaurant-bar having been in operation for less than ninety (90) days may be issued a temporary license to sell intoxicating liquor by the drink at retail for consumption on the premises between the hours of 11:00 a.m. and midnight on Sunday for a period not to exceed ninety (90) days if the restaurant-bar can show a projection of annual business from prepared meals or food consumed on the premises of at least fifty (50) percent of the total gross income of the restaurant-bar for the year or can show a projection of annual business from prepared meals or food consumed on the premises of at least two hundred seventy-five thousand dollars (\$275,000.00). No such temporary license shall be extended or made permanent until the applicant, prior to the expiration of the temporary license, shall file with the city clerk a verified statement of gross income from prepared meals or food consumed on the premises showing the requisite fifty (50) percent of gross income from prepared meals or food consumed on the premises for the preceding period of temporary license. The annual license fee required by Section 4-24(a)(5) of this chapter shall be prorated for the period of the temporary license.

(Ord. No. 267, § 4.3.3, 4-30-82; Ord. No. 316, § 2, 9-4-84; Ord. No. 471, § 6, 6-18-91; Ord. No. 486, §§ 1, 2, 1-7-92)

**State Law reference—** Restaurant-bar licenses, RSMo. § 311.097.

Sec. 4-29.1. - Special provisions for Sunday place of entertainment licenses.

- (a) Notwithstanding any other provisions of this chapter to the contrary, any person who possesses the qualifications required by this chapter and a Class 1 license pursuant to Section 4-24, and who now or hereafter meets the requirements of and complies with the provisions of this chapter may apply for,

and the council may issue, a license to sell intoxicating liquor, as defined in this chapter between the hours of 11:00 a.m. on Sunday and midnight on Sunday by the drink at retail for consumption on the premises of any place of entertainment as described in the application. As used in this section, the term "place of entertainment" means any establishment that has been in operation for at least one (1) year, and that has gross annual sales for the preceding year in excess of two hundred fifty thousand dollars (\$250,000.00).

- (b) Any applicant for the license described in this section, in addition to complying with all other requirements of this chapter, to include the prior issuance of a Class 1 license, shall pay a license fee for a Class 5 license as set out in Section 4-24(a)(5) of this chapter.

(Ord. No. 1017, § 1, 4-5-11)

Sec. 4-30. - Other license qualification.

- (a) No license shall be granted for the sale of intoxicating liquor, as defined in this chapter, within one hundred (100) feet of any school, church or other building regularly used as a place of religious worship unless the applicant for the license shall first obtain the consent in writing of the city council, except that when a school, church or place of worship shall hereafter be established within one hundred (100) feet of any place of business licensed to sell intoxicating liquor, the license shall not be denied for this reason. Such consent shall not be granted until at least ten (10) days' written notice has been provided to all owners of property within one hundred (100) feet of the proposed licensed premises.
- (b) No person shall qualify for a liquor or non-intoxicating beer license if that person or any partner, officer, director, or any individual owning ten (10) percent or more of the stock or financial interest therein, is not a person of good moral character or has been convicted of violating the provisions of any law applicable to the manufacture or sale of intoxicating liquor or non-intoxicating beer since the ratification of the Twenty-First Amendment to the Constitution of the United States; nor shall a person qualify for a liquor or non-intoxicating beer license unless that person is registered to vote in the state and has paid all taxes due for which he is liable to the state, county and municipality in which he resides, and to the city.
- (c) No license for the sale of intoxicating liquor or non-intoxicating beer in the original package not to be consumed upon the premises where sold shall be issued except to a person engaged in and to be used in connection with the operation of one or more of the following businesses: A drug store, a cigar and tobacco store, a grocery store, a general merchandise store, a liquor store, a confectionery and delicatessen store, and a combined filling station convenience store, as defined in Section 4.30(c) (1) below; nor shall any person engaged in the above named occupations be given a license for original package goods sales as herein provided defined who does not have and continuously keep in his store a stock of goods having a value according to the invoices of at least one thousand dollars (\$1,000.00), exclusive of fixtures and intoxicating liquors or non-intoxicating beer.
  - (1) *Combined filling station convenience store defined.* For purposes of this article, a combined filling station convenience store means a single business entity, on a single property, which concurrently: a) engages in the dispensing for sale, at retail, of vehicle fuels or lubricants, including lubrication of vehicles and replacement or installation of minor parts and accessories, but does not primarily engage in major repair work such as engine replacement, body and fender repair or spray painting; and b) conducts a retail establishment having a gross floor area of five thousand (5,000) square feet or less, primarily selling foods as well as other household goods customarily sold in larger food markets and supermarkets and does not engage in the sale of

individual cigarettes or other tobacco products except in the original package or container; and for which the preceding activities each constitute substantial and inter-dependent aspects of the overall operation and character of the business; and for which the sale of malt liquor or non-intoxicating beer does not include the separate sale of individual bottles or cans apart from a package of at least six (6) bottles or cans and does not include the sale of bottles or cans of malt liquor or non-intoxicating beer with a volume greater than or equal to twenty (20) fluid ounces.

- (d) Except where a person qualifies for licensure as a combined filling station convenience store as provided in Section 4-30(c) above, no license for the sale of intoxicating liquor or non-intoxicating beer shall be issued to any person where, as an adjunct to, or as part of the business conducted on such person's premises, gasoline or other motor fuels is sold to the motoring public. This subsection (d) shall not prohibit the renewal or reissuance of a license for the sale of intoxicating liquor or non-intoxicating beer with respect to any premises if (1) a license shall, previous so the effective date of Ordinance Number 373, have been issued for the sale of intoxicating liquor or non-intoxicating beer at such premises and (2) the selling of gasoline or other motor fuels to the motoring public at the time Ordinance Number 373 became effective was part of the business conducted on such premises and (3) such premises shall not have changed ownership after the effective date of Ordinance Number 373. Any such renewal or reissuance of the license shall be for the same type of license as held for said premises at the time Ordinance Number 373 became effective.

(Ord. No. 267, § 4.1.4, 4.2, 4.3.1, 4-20-82; Ord. No. 373, § 1, 2-17-87; Ord. No. 471, § 7, 6-18-91; Ord. No. 1082, § 1, 4-20-10; Ord. No. 1028, §§ 1—3, 2-7-12)

**State Law reference—** Location restrictions, RSMo. § 311.080.

#### Sec. 4-31. - Issuance.

Upon the filing of an application and bond for license for the sale of liquor or non-intoxicating beer, along with the required documentation and including a copy of a deed or lease for the premises, such other information as the city council shall request, said application and bond shall be presented to the city council at the next regular or special meeting thereof. If the city council shall find, after due investigation of all matters, that the applicant qualifies in all respects for the issuance of a license, the city council may authorize the issuance of a license to the applicant, permitting the applicant to conduct such business for a period expiring on June 30 next, after the date of the issuance of such license. The issuance of such a license is a privilege and is discretionary with the city council and shall not be issued as a matter of right, and shall not be issued until all fees required therefor have been paid.

(Ord. No. 267, § 5, 4-20-82)

#### Sec. 4-32. - Expiration and renewal.

- (a) All new or renewal licenses issued during the fiscal year of July 1 to June 30 shall expire on June 30 of each year, and no liquor or non-intoxicating beer shall be sold by any licensee unless and until the license shall have been authorized by the council for issuance and the fee therefor has been paid by the licensee.
- (b) The city council may renew the license from year to year thereafter if such business has been continuously engaged in since the granting of the proceeding license for the location, provided that the licensee has maintained an orderly place of business, has abided by the laws of the city as they apply to the place of business of the licensee, that the licensee continues to maintain all of the qualifications of licensee required for the issuance of a license. No renewal license shall be issued to

any licensee who shall owe any taxes, licenses, fees, fines or penalties to the city, and same shall be withheld until all such tax, licenses, fees, fines or penalties are paid in full in cash, cashier's check or certified check.

(Ord. No. 267, §§ 8, 9, 4-20-82)

Sec. 4-33. - Transfer, assignment, etc., notice of change of facts.

- (a) No liquor or non-intoxicating beer license shall be transferred or assigned by the licensee to any other person, except as set out hereafter.
- (b) If a licensee desires to sell his business which he has continuously operated since the issuance of the license to the licensee or the last renewal thereof, and if the said seller has operated an orderly place of business, and the seller's liquor or non-intoxicating beer license is not under order of suspension or order of revocation and he has paid all taxes, licenses, fees, fines and penalties due to the city, the council may entertain an application for a liquor or non-intoxicating beer license at such place of business without the application of such person being signed by any persons other than the applicant(s), and without the consent of the property owners as provided under subsection (b) of Section 4-30 of this Code, provided that the applicant meets all of the other qualifications for the issuance of a liquor or non-intoxicating beer license, and provided the license of selling licensee is returned to the city clerk for cancellation.
- (c) In the event of the death of licensee, the widow or widower or the next of kin of the deceased licensee who shall meet the qualification requirements of this chapter may make application and the city council may transfer such license to permit the continued operation of the business of the decedent for the remainder of the period for which a license fee has been paid by the deceased licensee.
- (d) Whenever one or more members of a partnership withdraws from the partnership, the city council may, upon written request, permit the remaining partner(s) originally licensed to continue to operate for the remainder of the period for which a license fee has been paid without obtaining a new license.
- (e) In the event the office of the managing officer becomes vacant, the corporation shall make application within fifteen (15) days after said vacancy occurs for the licensing of a new managing officer. All liquor and non-intoxicating beer business at the premises shall cease if the new managing officer has not qualified and been duly licensed within thirty (30) days after the occurrence of the vacancy.
- (f) If during the period for which a license is granted there be any change of facts or information differing from that set forth in the original license application on file with the city or any renewal thereof, written notice of each such change shall be given to the city clerk within ten (10) days after each such change. All information required on the initial application for partners, shareholders, directors and officers shall be reported to the city clerk for new partners, shareholders, directors and officers; and those individuals must qualify under the terms and provisions of this article; and if they fail to qualify, the liquor license for the establishment shall be subject to revocation or suspension pursuant to the procedures set forth in Sections 4-2 and 4-35.

(Ord. No. 267, § 10, 4-20-82; Ord. No. 290, § 1, 8-2-83)

Sec. 4-34. - Posting.

All licenses issued under this chapter shall be kept conspicuously posted in a place where the same can be viewed by the patrons, and at the address for which the liquor license was issued, and during the entire period for which such license is issued.

(Ord. No. 267, § 6.2, 4-20-82)

Sec. 4-35. - Revocation.

- (a) Whenever it is shown to the city council that a licensee hereunder has been guilty of a violation of the terms of this chapter, or has been guilty of disorderly or undesirable conduct, or is an improper person to engage in such business, or has been conducting a disorderly or undesirable place of business, or has violated any of the provisions of this chapter or of the Liquor Control Act of the state, or has no license from the state supervisor of liquor control, or has made a false affidavit in his application for license, or has failed to furnish additional sureties on his bond after demand therefor by the city council, the city council may, upon its own motion, or upon complaint of any person, or in the event the licensee closes his place of business for a period of ninety (90) days without good and sufficient cause, revoke or suspend for such time as the city council may deem necessary and proper any license issued under the provisions hereof, and the action of the city council shall be in addition to the penalties herein prescribed for violations of this chapter. Before revoking or suspending any license, the city council shall give to the licensee or to any person in charge of or employed in the place licensed, at least ten (10) days written notice of any complaint charged against him, the nature of such complaint and the date and place fixed for a hearing thereupon, at which hearing the licensee shall have the right to have counsel and produce witnesses in his behalf.
- (b) In the event that any license issued hereunder shall, for any cause, be revoked or suspended, as provided in this chapter, no portion of the fee paid therefor shall be refunded.

(Ord. No. 267, § 13, 4-20-82)

**State Law reference—** Liquor Control Act, RSMo. Ch. 311.

Secs. 4-36—4-50. - Reserved.

### ARTICLE III. - OPERATIONAL REQUIREMENTS

Sec. 4-51. - Interior to be visible.

Except in hotels, clubs and restaurant-bars, it shall be unlawful for any licensee to sell intoxicating liquors in a place, building or room where there are blinds, screens, swinging doors, curtains, or any other thing in such building or room that will obstruct or obscure the interior of such room from public view from the street or in any room not located on the ground floor or level immediately abutting on a public street.

(Ord. No. 267, § 6.3, 4-20-82)

Sec. 4-52. - Furnishing to minors or drunkards.

It shall be unlawful for any person or his employee to sell or supply intoxicating liquor or non-intoxicating beer or permit the same to be sold or supplied to an habitual drunkard or to any person who is under or apparently under the influence of intoxicating liquor or non-intoxicating beer. Intoxicating liquor or non-intoxicating beer shall not be given, sold or otherwise supplied to any person under the age of twenty-one (21) years.

(Ord. No. 267, § 6.5, 4-20-82)

**Cross reference—** Misrepresenting age to obtain intoxicating liquor and nonintoxicating beer, § 11-49; purchasing and possession of alcohol by minors, § 11-50; juveniles misrepresenting age for purpose of receiving alcoholic liquor, § 11-51.

**State Law reference**— Similar provisions, RSMo. §§ 311.310, 312.400.

Sec. 4-53. - Employees and workers.

- (a) No person shall employ in his business any person whose liquor license has been revoked or who has been convicted since the ratification of the Twenty-First Amendment to the Constitution of the United States of a violation of the provisions of any law applicable to the manufacture or sale of intoxicating liquor.
- (b) No person under the age of twenty-one (21) years shall sell or assist in the sale or dispensing of intoxicating liquors except:
  - (1) At any place of business licensed in accordance with this chapter where at least fifty (50) percent of the gross sales made consists of goods, merchandise, or commodities other than intoxicating liquor in the original package, persons eighteen (18) years of age or older may stock, arrange displays, accept payment for and sack for carryout intoxicating liquor. Delivery of intoxicating liquor away from the licensed business premises shall not be performed by anyone under the age of twenty-one (21) years.
  - (2) Persons eighteen (18) years of age or older may, when acting in the capacity as a waiter or waitress, accept payment for or serve intoxicating liquor in a business which sells food for consumption on the premises if at least fifty (50) percent of all sales in those places consists of food; provided that nothing in this section shall authorize persons under twenty-one (21) years of age to mix or serve across the bar intoxicating beverages.

(Ord. No. 267, § 6.6, 4-20-82)

**State Law reference**— Sale of intoxicating beverages by minors, RSMo. § 311.300.

Sec. 4-54. - Hours of sale, etc.

- (a) No person having a license under this chapter, nor any employee of such person, shall sell, give away or otherwise dispose of, or suffer the same to be done upon or about the premises, any intoxicating liquor or non-intoxicating beer in any quantity, at the following times:
  - (1) *Restaurant-Bar Licenses.* Between the hours of 1:30 a.m. to 6:00 a.m. on weekdays and 1:30 a.m. Sunday to 11:00 a.m. Sunday and midnight Sunday to 6:00 a.m. Monday;
  - (2) *Non-Intoxicating Beer Licenses.* Between the hours of 1:30 a.m. to 6:00 a.m. on weekdays and 1:30 a.m. Sunday to 1:00 p.m. Sunday and midnight Sunday to 6:00 a.m. Monday;
  - (3) *All Remaining Licenses.* Between the hours of 1:30 a.m. to 6:00 a.m. on weekdays and 1:30 a.m. Sunday to 6:00 a.m. Monday;
  - (4) *Limited access.* Where such licenses authorizing the sale of intoxicating liquor by the drink are held by clubs or hotels, this section shall apply only to the room or rooms in which intoxicating liquor is dispensed; and where such licenses are held by restaurants whose business is conducted in one room only and substantial quantities of food and merchandise other than intoxicating liquors are dispensed, then the licensee shall keep refrigerators, cabinets, cases, boxes and taps from which intoxicating liquor is dispensed.
  - (5) *Election days.* Reference RSMo. 311.290, 311.298, and 312.410.
- (b) When January first, March seventeenth, July fourth, or December thirty-first falls on a Sunday, any person having a license to sell intoxicating liquor by the drink may be open for business and sell intoxicating liquor by the drink under the provisions of his/her license on that day after 1:00 p.m. and

until the time which would be lawful on another day of the week, notwithstanding any provision of the law to the contrary.

(Ord. No. 267, §§ 6.7, 6.7.1, 4-20-82; Ord. No. 403, 7-5-82; Ord. No. 403, 7-5-88; Ord. No. 486, §§ 3, 4, 1-7-92; Ord. No. 511, § 2, 6-8-93)

**State Law reference**— Hours of sale, etc., RSMo. §§ 311.290, 311.298, 312.410.

Sec. 4-55. - Reserved.

**Editor's note**— Ord. No. 471, § 8, adopted June 18, 1991, deleted former § 4-55, relative to the minimum size for package sales, which derived from Ord. No. 267, § 6.8, adopted April 20, 1982.

## Chapter 5 - ANIMALS AND FOWL<sup>[1]</sup>

*Footnotes:*

— (1) —

**Cross reference**— Definitions and rules of construction generally, § 1-2; nuisances generally, Ch. 13; dogs in parks, § 14-45; killing of wildlife in parks, § 14-45; riding of horses in parks, § 14-45.

## ARTICLE I. - IN GENERAL

### Sec. 5-1. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Animal* shall mean any and all types of animals, both domesticated and wild.

*At large* shall mean off the premises of the owner or custodian of the animal or fowl, and not under the immediate control of the owner or custodian.

*Chicken* shall mean domestic members of the genus *Gallus gallus*, whether male or female, which are maintained for private and non-breeding use.

*Fowl* shall mean any and all fowl, domesticated and wild.

*Rooster* shall mean male domestic members of the genus *Gallus gallus*, which are maintained for private, non-commercial and non-breeding use.

(Ord. No. 165, § 1, 3-15-77; Ord. No. 1045, § 1, 11-20-12)

### Sec. 5-2. - Running at large.

(a) No person owning or having in his custody any animals or fowl shall permit same to go at large to the injury or annoyance of others, nor shall such animals or fowl be permitted at large upon the streets or other public ways of the city nor upon private property without the consent of the owner. Such action is declared to be a nuisance and dangerous to the public health and safety.

(b) Subsection (a) shall not apply to dogs or cats.

(Ord. No. 165, § 2, 3-15-77)

### Sec. 5-3. - Raising and keeping of animals as pets.

- (a) No person shall raise or keep animals other than such pets kept on the premises and horses or ponies; provided however, that all such animals are kept under sanitary conditions and provided that unattended horses and ponies are at all times kept within a fence which shall not be permitted closer than five (5) feet to any property line; or a structure which shall not be permitted closer than one hundred (100) feet to any property line. No horse or pony may be kept on a lot less than forty-five thousand (45,000) square feet in area. A lot on which two (2) horses or ponies are kept shall contain a minimum of sixty thousand (60,000) square feet in area. A lot on which three (3) horses or ponies are kept shall contain a minimum of eighty thousand (80,000) square feet in area. If more than three (3) horses or ponies are kept a minimum of eighty thousand (80,000) square feet of a lot area shall be provided for the first three (3) animals and an additional fifteen thousand (15,000) square feet shall be provided for each additional horse or pony. This shall not be construed to permit any other farm animals, piggeries, mink or fox farms, dog kennels, poultry farms or any other similar activity involving the breeding, boarding, care and/or sale of any animals other than those specifically permitted in this section.
- (b) It shall be unlawful for the owner of any premises, or the owner or keeper of any animal, to cause, suffer or permit a violation of subsection (a).

(Ord. No. 165, § 2A, 3-15-77; Ord. No. 228, § 1, 2-19-80; Ord. No. 339, § 1, 5-3-88)

Sec. 5-4. - Impoundment of animals or fowl at large.

- (a) Any person finding any animal or fowl running at large upon his premises may take up same and remove it to the county rabies control office presently located at 4100 Seven Hills Drive, or call the county rabies control or the city marshal, who may, if reasonably possible, take possession of same and take to 4100 Seven Hills Drive or other place specifically designated for impoundment purposes where said animal may be reclaimed by its owner. If the county rabies control officer or the city marshal has, or with reasonable dispatch can obtain, the name of the owner or custodian of the animal or fowl, the owner shall be notified of impoundment and may reclaim the animal or fowl for costs of impoundment as hereinafter specified. Any person taking up any animal as herein provided shall, as soon as reasonably possible, report same to the city marshal, giving the owner's name, if known, and a complete description of the animal or fowl.
- (b) Any police officer, the city marshal or the county rabies control officer, or other person designated by the city for such purpose is authorized to capture and impound any animal or fowl found at large, impounding to be in accordance with the procedure authorized by this section. In the event capture cannot be effected promptly, the officer, marshal or rabies control officer is authorized to destroy the animal or fowl.
- (c) When any animal shall be impounded as herein provided, it shall be the duty of the rabies control officer, the city marshal, or other person in charge of such animal or fowl, to release the same to the owner thereof upon payment to the county rabies control or the city, depending on which impounded said animal or fowl, the sum of seven dollars (\$7.00) for each animal or fowl for the first day of impoundment plus one dollar (\$1.00) for each succeeding day any such animal or fowl shall have been retained in the impounding facilities. An administrative fee of five dollars (\$5.00) shall be collected by the city clerk at the time of issuing the release from the city. The party claiming any such animal or fowl shall make satisfactory proof that he is entitled to the possession of same. If any such animal or fowl shall remain in the impounding facilities for five (5) days without having been claimed, the rabies control officer, the city marshal, or other person in charge of such animal or fowl, may cause the sale of the same to the person making the best offer therefor after ample opportunity for

bidding shall have been given. The rabies control officer, the city marshal, or other person in charge of such animal or fowl, shall keep a record of all bids received for all animals or fowl, showing the date of the sale thereof and the name of the person purchasing such animal. If the animal or fowl is not claimed or purchased within five (5) days from the date of capture, then it may be humanely destroyed. Animals which have bitten people shall be impounded for a minimum of ten (10) days or so long as the county health department directs.

(d) It shall be unlawful for any person to turn or cause to be turned loose any animal or fowl for the purpose of causing the same to be impounded.

(e) This section does not apply to dogs or cats.

(Ord. No. 165, §§ 3—6, 3-15-77; Ord. No. 173, 8-2-77)

#### Sec. 5-5. - Sale of rabbits or fowl.

It shall be unlawful and an offense for any person to sell, offer for sale, barter, or give away baby chickens, ducklings, or other fowl, under three (3) weeks of age, or rabbits under two (2) months of age, as pets, toys, premiums or novelties or to color, dye, stain or otherwise change the natural color of baby chickens, ducklings, or other fowl, or rabbits, or to bring or transport the same into the city; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings, or other fowl, or such rabbits in proper facilities by breeders or stores engaged in the business of selling for purposes of commercial breeding and raising.

(Ord. No. 165, § 2A, 3-15-77; Ord. No. 211, § 1, 5-15-79)

#### Sec. 5-6. - Animal and fowl care.

The owner or keeper of any animal or fowl shall provide said animal or fowl with adequate housing, food, water and veterinary care, and keep said animal or fowl in a condition of good health and reasonable comfort. Premises where animals or fowl are kept shall be kept clean and free of odor.

(Ord. No. 165, § 7, 3-15-77)

#### Sec. 5-7. - Unnecessary noises.

No person shall keep any animal or fowl which disturbs the comfort or repose of any person by making frequent or continued noise.

(Ord. No. 165, § 8, 3-15-77)

#### Sec. 5-8. - Cruelty.

No person shall inhumanely or cruelly injure or otherwise abuse any animal or fowl.

(Ord. No. 165, § 9, 3-15-77)

#### Sec. 5-9. - Removal of feces.

No person responsible for any animal shall allow or permit such animal to defecate upon any sidewalk, gutter, street, park or other public area, any subdivision or condominium common ground or private property of another unless such feces is immediately removed by the person responsible for the animal and deposited in a waste container or buried on ground where the person responsible for the animal has permission or the right to bury it.

(Ord. No. 789, § 1, 4-15-03)

Sec. 5-10. - Keeping of fowl.

Except for the keeping of chickens as may be permitted by Section 5-11, no person shall keep, maintain, raise or harbor any fowl upon any lot, tract or parcel of ground within the city.

(Ord. No. 1045, § 2, 11-20-12)

Sec. 5-11. - Chickens.

(a) *Permit required.*

- (1) No person shall keep, maintain or allow to remain upon any lot, tract or parcel of ground within the city a chicken unless such person has a valid permit issued under this section to do so.
  - (2) The director of public works or his/her designee is authorized to administer chicken permits, and to adopt and promulgate rules and regulations to interpret and implement the provisions of this section to secure the intent thereof and to promote the public health, safety and general welfare. An application for a chicken permit shall be submitted to the director of public works or his/her designee by the owner of the property on which such chickens will be kept, accompanied by a nonrefundable application fee in the amount of fifty dollars (\$50.00) payable to the city if the inspection is by the city or the amount charged by St. Louis County for such inspection. No permit shall be issued for more than six (6) chickens on any platted lot or group of contiguous lots, parcels, or tracts of land owned by the applicant containing a detached single family dwelling, but, as may be permitted below, only one (1) such chicken may be a rooster. No permit shall be issued for a rooster without the verified written consent of the owners (and lessees, if applicable) of all residentially-zoned property adjacent to the property on which such rooster will be kept and in no event may more than one (1) rooster be permitted on any platted lot or group of contiguous lots, parcels, or tracts of land owned by the applicant containing a detached single family dwelling. Such written consents must be in the form of a notarized letter and shall be included with any rooster permit application. No permit shall be issued to keep chickens on any platted lot or group of contiguous lots, parcels, or tracts of land owned by the applicant which is less than one (1) acre in size. No more than ten (10) permits shall be in effect in the city at any one time. No new permit shall be issued during the one (1) year period commencing upon the passage of the ordinance from which this section is derived, except to persons who are entitled to permits pursuant to subsection (3) below.
  - (3) Persons keeping, maintaining and raising chickens on property in the city as of October 1, 2012 shall be permitted to continue keeping, maintaining and raising chickens on such property, provided that each such person pursuant to subsection (ii) above, obtains a permit within sixty (60) days following the effective date of the ordinance from which this section is derived. Each such person shall not be limited as to the number of chickens or roosters that such person may keep on his/her property provided that the total number of chickens does not exceed the number kept by such person as of the effective date of this ordinance by more than ten (10) percent and if such person was breeding chickens as of October 1, 2012, then such person may continue to breed chickens on such property. Any person who qualifies to benefit from the provisions of this subsection (3) who fails to obtain a permit within the time stated shall forfeit their right to benefit from the provisions of this subsection (3).
- (b) *Confinement.* A chicken shall at all times be safely and securely confined in a coop or other enclosure providing at least a minimum square footage of three (3) square feet per chicken. The design and construction of the coop or other enclosure is to be reviewed and approved by department of public

works. The coop or other enclosure shall provide sufficient rain shelter and shall be located at least ten (10) feet from the property line. A diagram that indicates the location of the coop or other enclosure, its size and distance from the property lines and other structures on the property shall be included with the chicken permit application. The coop or other enclosure shall be maintained in good repair, free of noxious odors, and in a clean and sanitary condition. Nothing in this section shall be interpreted to supersede any applicable zoning ordinance relating to the permissibility, square footage or placement of such a structure. Where the permissibility, square footage or placement requirements of this section are in conflict with applicable zoning regulations, the zoning regulations shall control.

- (c) *Sale of chickens or eggs.* The sale of eggs is allowed with a valid City of Black Jack business license, which is renewed annually. No chicken kept on a premise pursuant to a chicken permit shall be sold or offered for sale, including, but not limited to by barter or exchange.
- (d) *Inspections.* The director of public works or his/her designee may inspect the premises where any chicken is kept, to determine whether there is compliance with this section.
- (e) *Slaughtering restrictions.* Any slaughtering of chickens shall not be visible from outside of the property on which any chickens are lawfully kept.
- (f) *Responsibility.* The owner and occupant of a premises where a chicken is kept, maintained or allowed to remain, and any holder of a permit for the chicken, shall be responsible for any violations of this section.
- (g) *Penalties and enforcement.* Any person found to be in violation of any of the provisions contained in this section may, upon conviction thereof, be fined a sum of up to one thousand dollars (\$1,000.00) and sentenced to up to thirty (30) days in jail or a combination of both.

(Ord. No. 1045, § 2, 11-20-12; Ord. No. 1047, § 1, 12-18-12)

Secs. 5-12—5-25. - Reserved.

## ARTICLE II. - DOGS, CATS AND DISEASE CONTROL

### Sec. 5-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*At large* means off the premises of the owner's real property and not under restraint of a competent person.

*Cat* means all domestic species or varieties of the genus felis, male or female, four (4) months of age or older.

*Certificate* means the certificate issued, under the St. Louis County Rabies Control Code, at the time of vaccination, and bearing thereon the signature of the vaccinator, the registration number, the name, color, breed and sex of the dog or cat, the name and address of the owner, the date of the vaccination, and type of vaccine administered.

*Chicken embryo origin vaccine* means vaccine which is manufactured using the embryo of the chicken as a growth medium and also known as "Flury Strain vaccine."

*Competent person* means a human being who is capable of fully controlling and governing the animal in question.

*Court* means the municipal court of the city.

*Dog* means all domesticated members of the *canis familiaris*, male or female, four (4) months of age or older.

*Euthanize* means to put to death in a humane manner.

*Exposed to rabies* means any dog or cat, whether it has been registered or vaccinated for rabies or not, or other animal which has been bitten, been fighting with or has consorted with an animal known or suspected to have rabies or showing objective symptoms of rabies.

*Health department, commissioner, or health commissioner* means the department of public health of the county, or the commissioner of public health of the county, or any person employed by the county health commissioner to enforce the St. Louis County Rabies Control Code.

*Household* means those members of a family, including servants and attendants, living in the same dwelling unit.

*Impound* means the apprehending, catching, trapping, netting, tranquilizing, confining, or, if necessary, the destruction of any animal by the health commissioner or his agent, or by any employee or agent of the city.

*Impounding facilities* means any premises designated by resolution of the city council for the purpose of impounding and caring for all animals in violation of this article.

*Kitten* means all domestic species or varieties of the genus *felis*, male or female, under the age of four (4) months.

*Nerve tissue origin* means vaccine which is manufactured, using tissue of the nervous system as a growth medium.

*Owner* means any person who, or firm or corporation which owns, harbors, shelters, keeps, controls, manages, possesses, or has part interest in any dog, cat, animal or kennel in the city. The occupant of any premises on which a dog or cat remains for a period of seven (7) days, or to which it customarily returns for a period of ten (10) days is presumed to be harboring, sheltering or keeping the aforementioned dog or cat, within this definition. Under no circumstances are the normal and ordinary accepted definitions of the terms "harboring," "sheltering" or "keeping," to be limited to the words of the aforementioned presumption. If a minor owns a dog, puppy or other animal subject to the provisions of this article, the head of the household of which such minor owner is a member shall be deemed to be the owner of such dog, puppy or animal for the purpose of this article, and under this article shall be responsible as the owner, whether or not such household head is himself a minor. If not a member of a household, such minor owner shall himself be directly subject to the provisions of this article.

*Pup or puppy* means all domesticated members of the *canis familiaris*, male or female, under four (4) months of age.

*Restraint* means:

- (1) Controlled by a line or leash not more than six (6) feet in length, when said line or leash is held by a competent person, or
- (2) Within an enclosed vehicle which is parked, stopped, or being driven.

*Vaccinate* means the injection, by a veterinarian, or his authorized agent, of a specified dose of anti-rabies vaccine into the body of a dog or cat, such vaccine having the U.S. Government license number approval stamped on the label of the vaccine container and having been approved by the health commissioner. Vaccine used for vaccination of the dogs and cats shall be stored and kept under conditions proper for the vaccine and shall show no signs of spoilage or otherwise be unfit for producing immunity against rabies.

*Vaccination—registration* means the procedure of vaccinating for rabies and issuing an identification number and an appropriate certificate under the St. Louis County Rabies Control Code. The above words shall be interchangeable.

*Veterinarian* means any veterinarian, holding a current Missouri license and operating on a participating basis with the health department, as required by the St. Louis County Rabies Control Code.

(Ord. No. 62, § 1, 2-21-72)

Sec. 5-27. - Entry powers of enforcement officials.

It shall be unlawful for any person to conceal an animal or interfere with the health commissioner or persons designated by him or such other persons who may be designated by the city council, in the performance of their legal duties, as provided under this article. The health commissioner, or persons designated by him, or such other persons who may be designated by the city council, shall have the right of entry onto any unenclosed lots or lands for the purpose of collecting any animal, which is on such lot or land, in violation of this article and whose presence on such lot or land constitutes a violation of any of the provisions of this article. The health commissioner, or his duly appointed representative, or any other person who may be designated by the city council, shall have the right of entry to any property or premises during the period of any quarantine for the purpose of examining or obtaining any animal suspected of having rabies, having been exposed to rabies, or having bitten a person or other animal.

(Ord. No. 62, § 12, 2-21-72)

Sec. 5-28. - Bad dog; confinement, notice and destruction.

When any fierce or dangerous dog or any one that has previously attacked or bitten any person or domestic animal, or possesses a propensity to attack or bite man or domestic animal, or cause annoyance to persons using the public roads, streets or sidewalks, or chase, worry or molest persons, livestock or other dogs or cause any damage or injury, which propensity is known or ought reasonably to be known by the owner of such dog, it shall be the duty of such owner to confine such dog to a yard completely enclosed by a fence of such height, strength and construction so as to prevent the dog confined therein from jumping over, or crawling through or under such fence, and secured in such a manner as to prevent the inadvertent release of such dog, and to post a notice on the premises, conspicuously visible to the public and noting in letters not less than two (2) inches high "BAD DOG HERE," or "BEWARE—BAD DOG," or "BEWARE OF DOG." Any dog of vicious propensities found off the premises of its owner may be seized by any person authorized by the health commissioner, or any other person as may be designated by the

city council, and the dog and owner may be brought to trial. Upon establishment by a preponderance of the evidence of the vicious propensities of such dog and that it was off the premises of its owner, by testimony, under oath, the court may order said dog to be euthanized. Upon a showing, beyond a reasonable doubt, by testimony, under oath, of the vicious propensities of such dog and that it was off the premises of its owner, the owner may be subjected by the court to the penalties provided for in subsection (d) of Section 5-42 of this Code.

(Ord. No. 62, § 14, 2-21-72)

Sec. 5-29. - Vaccination and registration of dogs and cats.

- (a) Every person who owns any dog or cat that is kept any time during the year within the city, or who permits a dog or cat to come upon, on or in the city, or to remain in or about his home, place of business or other premises in the city, shall have such dog or cat vaccinated against rabies and registered as provided in the St. Louis County Rabies Control Code. Such dogs and cats must be vaccinated at least once each year if a nerve tissue origin vaccine is used, unless a chicken embryo or other three-year type vaccine, approved by the health commissioner, is administered, in which case the dog or cat shall be inoculated at least once every three (3) years, or if other vaccine, approved by the health commissioner, is administered, then at the frequency approved by the health commissioner.
- (b) Every dog and cat which has been vaccinated in accordance with the provisions of the St. Louis County Rabies Control Code shall at all times wear the registration tag in the manner therein prescribed.
- (c) It shall be unlawful for any person to own any dog or cat unless such dog or cat has been vaccinated against rabies and wears a current, unexpired registration tag, and the owner possesses a certificate issued in accordance with the provisions of the St. Louis County Rabies Control Code.
- (d) No person shall bring into the city any dog or cat which has not been vaccinated in accordance with the requirements of this article.

(Ord. No. 62, §§ 2, 18, 2-21-72)

Sec. 5-30. - Running at large.

- (a) It shall be unlawful for any person to permit any dog, cat, kitten or puppy, whether vaccinated or not, to run at large or to go off the premises of its owner unless it is under restraint.
- (b) In a prosecution charging a violation of subsection (a) of this section, proof that an animal was running loose in violation of said subsection, together with proof that defendant named in the complaint was, at the time described in the complaint, the person who owned said animal, shall constitute a prima facie presumption sufficient for conviction that the owner was the person who permitted it to run at large.
- (c) The provisions or prohibitions of subsection (a) shall not apply to bloodhounds or other dogs used for tracking in conjunction with police activities, or to dogs of the canine corps of a police force of any municipality located in the county, of the City of St. Louis, of the county police, Missouri State Highway Patrol, of any federal law enforcement agency, or of any branch of the Armed Forces of the United States, while being used to conduct official business, or while being used for official purposes.

(Ord. No. 62, § 15, 2-21-72)

Sec. 5-31. - Female dogs in oestrous cycle.

All female dogs shall be kept securely confined in an enclosed place while in heat.

(Ord. No. 62, § 3, 2-21-72)

Sec. 5-32. - Impoundment—Generally.

- (a) The health commissioner or other persons designated by him, or such other persons who may be designated by the city council, shall have the power to catch, confine, and impound animals as follows:
- (1) Dogs wearing an expired or invalid registration tag;
  - (2) Dogs not wearing a registration tag who are required to be registered;
  - (3) All female dogs not securely confined in an enclosed place while in heat;
  - (4) All dogs, puppies, cats or kittens which are at large;
  - (5) All animals infected or suspected of being infected with rabies and all animals exposed to or suspected by him to be exposed to or infected with rabies, including animals known to have been bitten by a rabid animal, whether the animal to be impounded is running at large or on a leash, or whether it is confined to its owner's premises;
  - (6) All unconfined or unleashed animals with vicious propensities;
  - (7) Dogs and cats not vaccinated for rabies within the previous twelve (12) months with nerve tissue vaccine, nor within the preceding thirty-six (36) months with chicken embryo of Flury Strain vaccine, nor if another vaccine approved by the health commissioner was used within the preceding time period, approved by the health commissioner as the duration of effective protection against rabies which that vaccine gives;
  - (8) Unconfined dogs in quarantined areas;
  - (9) Animals which have bitten a person or animal, or which have been bitten by an animal suspected of having rabies, or which are suspected of having rabies, or have been exposed to rabies.
- (b) No dog shall be exempted from the provisions of subsections (a)(3) through (a)(9) above by virtue of vaccination, tags, or a vaccination-registration certificate.
- (c) Animals impounded in accordance with this article shall be impounded in the county rabies shelter, or at such other location as may be designated by the city council.
- (d) Each impounded dog and cat shall be vaccinated and licensed before being released to the owner. A fee to cover the cost of vaccination, and for the shelter service, shall be collected for each dog or cat so released. Dogs and cats that have been vaccinated before becoming impounded shall be released to their owners within five (5) days after capture, upon payment of the shelter service fee specified in Section 5-33 of this Code, provided the health commissioner or person authorized by resolution of the city council, is of the opinion that such release will not impair the safety of the public. Every animal impounded under the provisions of this regulation, which is found upon arrival at the pound to be diseased or injured, and whose owner is unknown or whose owner relinquishes ownership in writing, shall be immediately euthanized.

(Ord. No. 62, § 4, 2-21-72)

Sec. 5-33. - Same—Redemption.

Any animal captured or impounded under the provisions of this article, determined not to be infected with rabies, by the health commissioner, may be redeemed by the owner or other person having the right of possession of such animal, upon the presentation of a proper vaccination certificate, and upon payment of a shelter service fee of not less than ten dollars (\$10.00). Fees in excess of this minimum shall be based on the cost of goods and services administered to the animal. If the animal is not claimed in the

manner provided herein, within five (5) days after its capture, such animal shall be disposed of by euthanasia or sale. Before release by any such sale, the buyer shall have the animal vaccinated and pay the shelter service fee provided herein.

(Ord. No. 62, § 5, 2-21-72; Ord. No. 279, § 5(a), 2-1-83)

**Editor's note—** Ord. No. 279, adopted Feb. 1, 1983, amending this section, was approved at an election held Apr. 5, 1983.

Sec. 5-34. - Keeping of vicious dogs prohibited.

- (a) It shall be unlawful to keep, harbor, own or in any way possess within the corporate limits of the City of Black Jack, Missouri any vicious dog. "Vicious dog" is defined to mean:
  - (1) Any dog which in a vicious or terrorizing manner, approaches any person in apparent attitude of attack upon the streets, sidewalks or any public grounds or places; or
  - (2) Any dog with a known propensity, tendency or disposition to attack unprovoked, to cause injury or to otherwise endanger the safety of human beings or domestic animals; or
  - (3) Any dog which bites, inflicts injury, assaults or otherwise attacks a human being or domestic animal without provocation on public or private property; or
  - (4) Any dog owned or harbored primarily or in part for the purpose of dog fighting or any dog trained for dog fighting.
- (b) Notwithstanding the definition of a vicious dog above, no dog may be declared vicious if any injury or damage was sustained, while committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime. If a minor is under the age of 7 years of age at the time the damage or injury was sustained, it shall be rebuttably presumed that such minor was not committing a trespass or other tort or teasing, tormenting or abusing the dog.
- (c) No dog may be declared vicious if any injury or damage was sustained by a domestic animal which at the time the injury or damage was sustained, was teasing, tormenting, abusing or assaulting the dog. No dog may be declared vicious if the dog was protecting or defending a human being within the immediate vicinity of the dog from an unjustified attack or assault.
- (d) The burden of proof thereon shall be upon the owner or keeper of the dog.
- (e) The provisions of this ordinance shall not apply to K-9 or other dogs owned by any police department or any law enforcement officer which are used in the performance of police work or to any help dogs or seeing eye dogs.
- (f) Any person violating or permitting the violation of any provision of this section shall upon conviction in municipal court be fined a sum not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000.00). In addition to the fine imposed the court may sentence the defendant to imprisonment for a period not to exceed thirty (30) days. In addition, the court shall order the dog removed from the city. Should the defendant refuse to remove the dog from the city the municipal court judge may find the defendant owner in contempt and order the immediate confiscation and impoundment of the animal. Each day that a violation of this section continues shall be deemed a separate offense. In addition to the foregoing penalties, any person who violates this section shall pay all expenses, including shelter, food, handling, veterinary care and testimony necessitated by the enforcement of this section.

(Ord. No. 393, § 1, 12-15-87; Ord. No. 530, § 1, 3-15-94; Ord. No. 538, §§ 1—4, 5-17-94; Ord. No. 757, § 1, 6-18-02; Ord. No. 896, § 1, 12-5-06)

Sec. 5-35. - Rabid animals.

- (a) Any animal which exhibits objective symptoms of rabies may, after written certification to the owner by the health commissioner, or such other person designated by the city council for the enforcement of this article, be impounded on or off the property of the owner. This animal shall be held for ten (10) days at the impounding facilities designated by the city council for clinical observation and, if alive at the termination of this period, shall be returned to the owner after payment of the shelter service provided for in Section 5-33 of this Code. As an alternative procedure, the owner, at his own expense, may designate any veterinary hospital in the county wherein such animal is to be impounded and observed for a similar ten-day period. If such animal shall die, during the observation period, regardless of location, the head shall be removed and submitted to a qualified laboratory for examination.
- (b) Any animal, which has been exposed to rabies, shall be immediately destroyed unless the owner, at his expense, desires, chooses, specifies, picks or elects one of the following alternative methods:
  - (1) Strict isolation in a kennel or animal hospital for six (6) months.
  - (2) If no previous vaccination has been given to a dog or cat within a period of three (3) years with chicken embryo (Flury Strain) vaccine, or within one year, using vaccine of nerve tissue origin, or if other vaccine approved by the health commissioner was used and if the effective protection limit of the last such vaccination has passed, then such dog or cat shall be placed on a schedule of immunization approved by the health commissioner.
  - (3) If a dog or cat has been vaccinated previously with another vaccine approved by the health commissioner, within the duration of the vaccine's effective protection as approved by the health commissioner, the animal shall be revaccinated and restrained by a leash or confined at home for thirty (30) days.
- (c) Prior to release of any dog under clinical observation for rabies all conditions of this article shall be fulfilled.
- (d) Any person within the city having information or knowledge of any animal within the city which:
  - (1) Exhibits clinical symptoms suggestive of rabies; or
  - (2) Has been exposed to rabies; or
  - (3) Is suspected of having rabies;shall report such knowledge or information to the county health department and the law enforcement officials of the city.
- (e) The health commissioner or person designated by him, or such other person as may be designated by the city council, shall dispose of any animal infected with rabies and such person so designated shall have the power to examine and impound any animal bitten by or exposed to any other animal infected with rabies. He shall have the power to require the owners of such animals to take such necessary measures to prevent further spread of rabies, and to dispose of any exposed animal, if such necessary measures are not taken by the owners.
- (f) Any person destroying an animal infected with rabies or suspected of being infected with rabies shall immediately notify the county health department and the law enforcement officials of the city, and shall surrender the carcass of such animal upon demand. The owner or custodian of any such

destroyed animal shall immediately provide the health department and the law enforcement officials of the city with full particulars thereof, including the time, date, location and the name and address of the owner or person having custody of any animal exposed to the animal destroyed.

(Ord. No. 62, §§ 6—9, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-36. - Other diseased animals.

Any animal which does not exhibit a valid vaccination-registration tag issued by the county, and which reveals the symptoms of any disease or injury, clearly not those of rabies, as determined by the county health department, or by any such person as may be designated by the city council, may be subjected to disposal as provided in Section 5-33 of this Code, at the earliest possible time.

(Ord. No. 62, § 16, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-37. - Rabies quarantine.

- (a) Whenever rabies becomes prevalent in the city, the mayor shall, according to the necessity of the case, issue a quarantine order requiring every owner or person in charge of any dog, whether vaccinated or not, within the limits of the city, to either euthanize his dog or dogs or confine them in the home or some other secure building. Whenever, during a quarantine, it is necessary that a dog leave the confines of a home or other secure building, such dog shall be placed on a leash, no more than six (6) feet in length and under the direct physical control of a competent person, not less than fifteen (15) years of age. Said order shall be published once in a paper publishing the business of the city, or shall be posted in at least twenty (20) conspicuous places about the city. The mayor may, by proclamation, terminate any such quarantine whenever, in his judgment, the necessity for it no longer exists.
- (b) Whenever any quarantine order is issued as provided in subsection (a) above, it shall be the duty of the law enforcement officials of the city, and such other person or persons as may be designated by the city council, to kill all dogs found running at large, except those which have been immunized.

(Ord. No. 62, § 10, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-38. - Animal bites.

- (a) The owner of any animal which bites any person, regardless of the circumstances, or irrespective of whether it is vaccinated, shall be required to place such animal in the custody of the county health department or have same confined by owner in a manner satisfactory to the county health commissioner, or chief of police, and in a manner that will prevent contact with people and other animals for a period of ten (10) days following the evening of the day of the bite, for the purpose of clinical observation. If the owner shall not confine such animal in a manner satisfactory to the county rabies control, such animal shall be forthwith surrendered to them upon demand. All expenses shall be borne by the owner of the animal. If such animal develops clinical symptoms suggestive of rabies, it shall be allowed to die a natural death. If, for any reason, such animal should die while in confinement, its head shall be removed by a veterinarian and submitted to a qualified laboratory. If, at the end of such ten-day period of observation, said animal is alive and healthy, it may be released to its owner.
- (b) All other conditions of this article must be fulfilled prior to the release of all animals under clinical observation as the result of biting a person.
- (c)

It shall be the duty of any person bitten by any animal, or the parent or guardian of any minor bitten by an animal, or the guardian of an incompetent person bitten by any animal, to report the same to the county department of health and the law enforcement officials of the city immediately. Such report shall contain the name and address of the owner and of the animal if known, the day and time bitten, and location where bitten, and a general description of the animal.

- (d) It shall be the duty of every physician to report immediately to the county department of health and the law enforcement officials of the city, the full name, age and address of any person under his care or observation who has been bitten by an animal, irrespective of whether infected with rabies or suspected; and every veterinarian treating or having under observation any animal infected with rabies, shall report to the county health department and the law enforcement officials of the city, the owner's name and address and, if the animal is a dog or cat, the county vaccination-registration number.

(Ord. No. 62, § 11, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-39. - Refusal to deliver animals prohibited.

No person shall refuse to deliver to the health commissioner or any person designated by the city council, an animal subject to rabies, when requested to do so under the provisions of this article.

(Ord. No. 62, § 17, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-40. - Abandonment of animals.

No person shall abandon any animal subject to rabies in the city.

(Ord. No. 62, § 13, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-41. - Barking or annoying dogs.

No person shall own, keep or harbor upon his premises any dog that by loud or frequent or habitual barking, yelping or howling, or by threat of attacking or biting, causes fear or annoyance to the neighborhood, or to persons passing upon the streets and sidewalks.

(Ord. No. 62, § 19, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-42. - Boarding dogs for hire.

The boarding or keeping for hire within the city of dogs, which are the property of persons other than the owner of the premises upon which they are kept, is hereby prohibited. This does not prohibit the keeping of any dog by a licensed veterinarian for a period not exceeding twelve (12) days, if during such time it is under treatment by such veterinarian.

(Ord. No. 62, § 20, 2-21-72; Ord. No. 393, § 1, 12-15-87)

Sec. 5-43. - Violations.

- (a) The municipal court is authorized to, and shall have and perform the following duties enumerated in this section, in cases involving violations of the portions of this article enumerated in subsection (b):

- (1) Accept payment of designated fines, penalties, and issue receipts therefor.
- (2) Maintain records of all violations of the provisions of this article of which each person has been guilty during the preceding sixty (60) months whether such guilt was established in court, or by payment of a fine in and to the municipal court.

(3)

File with the law enforcement agency copies of the records of all cases involving violations of the provisions of this article, irrespective of guilt and the disposition of each such case.

- (b) The violation of, failure to comply with, or the committing of any act prohibited by any provision of this chapter shall constitute an unlawful act and upon the conviction of such unlawful act, the person so convicted shall be punished in accordance with Section 1-13 of the Code of Ordinances, City of Black Jack, Missouri and each day that such unlawful act is committed or continues to be committed shall constitute a separate offense. Any person charged with a violation of this chapter may, within five (5) days after receipt of a notice, pay a fine or may enter a plea of not guilty and stand trial in the municipal court.
  - (c) If the person so charged fails to pay the designated fine or enter a plea of guilty within five (5) days after a complaint has been filed, such persons shall be sent a letter directing them to appear in the municipal court, notifying them of the address of the court, advising that a warrant for the arrest of such persons may be issued if they should fail to appear in court upon the date and time specified.
- (Ord. No. 62, § 21, 2-21-72; Ord. No. 246, §§ 2, 3, 1-20-81; Ord. No. 258, § 1, 8-4-81; Ord. No. 337, § 1, 5-7-85; Ord. No. 393, § 1, 12-15-87)

## Chapter 6 - BUILDINGS AND BUILDING REGULATIONS<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Definitions and rules of construction generally, § 1-2; drainage and flood control, Ch. 7; fire prevention code, § 8-16 et seq.; signs, advertising sale, etc., of residential property, § 11-86; planning and development, Ch. 16; subdivisions, App. B; zoning, App. C.*

**State Law reference**— *Power of city to regulate and control construction of buildings, RSMo. § 77.500; fire protection requirements of certain buildings, RSMo. § 320.010 et seq.*

## ARTICLE I. - IN GENERAL

### Sec. 6-1. - General fee schedule.

- (a) *Purpose.* The purpose of this section is to establish a schedule for fees, charges and expenses.
- (b) *Definitions.*
  - (1) *Inspection.* "Inspection" shall include an initial inspection of the property, a written report citing any deficiencies disclosed by the inspection and a second inspection to verify that the deficiencies have been corrected.
  - (2) *Reinspection.* "Reinspection" shall mean any inspection required subsequent to the inspections defined in (1) above, and made necessary because of continuing or new deficiencies of the property.
  - (3) *Retirement village/community.* A nursing facility located on the same premises as a full care nursing home and providing semi-independent apartment style living accommodations for residents, including separate cooking facilities for each living unit.
- (c) *Schedule of fees, charges and expenses.*
  - (1) *Inspection fee, residential:*
    - a. The fee for an occupancy inspection of single-family residences shall be one hundred dollars (\$100.00) for the original inspection and reinspection and twenty-five dollars (\$25.00) for the third inspection and each additional inspection thereafter.
    - b.

Fees for town houses or apartment units with three (3) or more bedrooms shall be the same as that for single-family residences.

- c. The fee for an occupancy inspection of any apartment shall be fifty dollars (\$50.00) and any reinspection necessary shall have a fee of twenty-five dollars (\$25.00).
- d. The fee for an annual building inspection of a retirement village/community shall be three hundred dollars (\$300.00).
- e. All fees shall be payable on application for inspection.

(2) *Inspection fee, commercial.*

- a. The fee for an occupancy inspection of commercial buildings shall be one hundred dollars (\$100.00) and any reinspection necessary shall have a fee of twenty-five dollars (\$25.00).
- b. The inspection fee shall be payable on application for inspection.

(3) *Notice of appeal to board of adjustment.*

- a. The fee for a notice of appeal to the board of adjustment, filed with the director of public works and with the board of adjustment, shall be one hundred ten dollars (\$110.00).

(4) *Petition for change of zoning district boundaries or classification, or special use permit.*

- a. The filing fee for a petition for change of zoning district boundaries, district classifications or special use permits shall be based on the area contained in the property in question, according to the following schedule:

*Acreage    Fees*

1 or less .....\$ 480.00

1.1 to 2 ..... 600.00

2.1 to 3 ..... 720.00

3.1 to 4 ..... 830.00

4.1 to 5 ..... 950.00

5.1 to 6 ..... 1,070.00

6.1 to 7 ..... 1,190.00

7.1 to 8 ..... 1,250.00

8.1 to 9 ..... 1,310.00

9.1 to 10 ..... 1,370.00

10.1 to 20 ..... 1,430.00

20.1 to 30 ..... 1,490.00

30.1 to 40 ..... 1,550.00

40.1 to 50 ..... 1,610.00

50.1 to 60 ..... 1,670.00

60.1 to 70 ..... 1,730.00

70.1 to 80 ..... 1,790.00

More than 80 ..... 2,090.00

b. The fee shall be payable on filing of the petition.

(d) *Collection of fees.*

- (1) In the administration of the provisions of this section, the city clerk shall collect all fees at the time of filing of petition or application for the various procedures, as stated in subsection (c).
- (2) The city clerk shall forthwith pay these fees over to the city treasurer to the credit of the general fund of the city.

(Ord. No. 284, §§ 1—4, 3-15-83; Ord. No. 324, § 1, 1-15-85; Ord. No. 634, §§ 2—4, 6-16-98; Ord. No. 692, § 1, 8-1-00; Ord. No. 738, §§ 1, 2, 12-4-01; Ord. No. 854, § 1, 3-15-05)

Secs. 6-2—6-15. - Reserved.

ARTICLE II. - BUILDING CODE<sup>[2]</sup>

*Footnotes:*

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**Editor's note**—Ord. No. 464, § 1, adopted March 19, 1991, repealed Ord. No. 335, adopted April 16, 1985, from which the provisions of former Art. II, §§ 6-16—6-18, 6-20, 6-21, relative to the building code, derived. At the discretion of the editor, §§ 2—6 of said Ord. No. 464 have been included herein as new §§ 6-16(a), 6-17, 6-18, 6-20 and 6-21.

Sec. 6-16. - Building code adopted; seismic design for earthquake preparedness.

- (a) A certain document, copies of which were placed on file in the office of the city clerk, said copies being marked and designated as the BOCA National Building Code/1996, Thirteenth Edition, as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the building code of the City of Black Jack, for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the BOCA National Building Code/1996, Thirteenth Edition, are hereby referred to, adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions, and changes, prescribed in this article.
- (b) Any new construction or major structural revocation begun after July 1, 1998, all buildings for which leases are executed by political subdivisions of the state after July 1, 1998, and all buildings for which leases are executed by the state or any institution of higher education after July 1, 2001, shall comply with the standards for seismic design and construction of the Building Officials and Code Administrators Code or of the Uniform Building Code. This paragraph (b) shall not apply to any building owned by the state, any institution of higher education, any political subdivision upon which construction was begun or finished before the effective date of this section, any private structure with less than ten thousand (10,000) square feet in total area, or any single-family or duplex residence. As used in this paragraph (b), the term "major structural renovation" means any reconstruction, rehabilitation, addition or other improvement of an existing structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure before the start of construction of the major structural renovation.

(Ord. No. 464, § 2, 3-19-91; Ord. No. 466, §§ 1—3, 3-19-91; Ord. No. 634, §§ 5, 6, 6-16-98; Ord. No. 968, § 1, 3-17-09; Ord. No. 1005, § 1, 9-7-10)

Sec. 6-17. - Jurisdictional titles.

Throughout the BOCA Basic National Building Code/1996, Thirteenth Edition, wherever the terms "name of jurisdiction" or "local jurisdiction" appear it shall be deemed to mean "City of Black Jack, Missouri"; likewise wherever the term "department of building inspection" appears it will be deemed to mean "department of public works."

(Ord. No. 464, § 3, 3-19-91; Ord. No. 634, § 7, 6-16-98)

Sec. 6-18. - Amendments.

The BOCA National Building Code/1996, Thirteenth Edition, is amended by additions, deletions, and changes including the changing of articles, sections, subsection titles and the addition of new sections and subsections so that such amended and added articles, sections and subsections read as follows:

107.7 *Engineering details:* The code official shall require to be filed adequate details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. All engineering plans and computations, except those specifically excepted herein, shall bear the signature and seal of the engineer or architect responsible for the design as required by Section 114.1, which engineer or architect shall be licensed and registered in the State of Missouri.

*Exceptions:*

1. Single-family dwelling plans, prepared and designed by the owner of the proposed structure and built for his or her exclusive use and occupancy for a period of at least one (1) year. These plans may be signed by the owner.
2. Miscellaneous structures related to residential properties (for example, room additions, carports, garages, sheds).

108.2.1 *Extension of permits:* Building permits may be extended at any time up to ninety (90) days prior to the expiration date of the specific permit. Requests for extension must be in writing from the permit holder or his/her representative.

112.3.1 *Fee schedule:* The fee schedule for each plan examination, building permit and inspection shall be as established by ordinance.

112.3.2 *Double fee:* When any work for which a permit is required by this code is started, or proceeded with, prior to obtaining said permit, the total normal fees applicable shall be doubled, but payment of said doubled fee shall not relieve any persons from fully complying with the requirements of this code, nor from other penalties prescribed herein.

116.4 *Violation penalties:* An person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, construct, alter or repair a building or structure in violation of an approved plan or directive of the director of public works, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00), or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

117.2 *Unlawful continuance:* Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

118.1.1 *Scope; requirement:*

- (a) Except as otherwise provided, it shall be unlawful for any person to occupy any property, or for any owner or agent to permit the occupancy thereof, for any purpose until all required certificates of compliance and/or certificates of occupancy have been issued by the director of public works or his/her designee. No certificate of compliance or certificate of occupancy shall be issued until all violations of this code shall have been corrected and brought into compliance.

118.1.2 *Property; defined:*

- (a) For purposes of Section 118 of this code, the term "property" shall be defined as any premises, structure, building or dwelling subject to the provisions of this code, as those terms are defined in Section 6-92-PM-202.0 of this code.

118.1.3 *Certificates and permits; contents:*

- (a) Any certificate of compliance, occupancy inspection report or certificate of occupancy issued by the director of public works or his/her designee pertaining to any property shall state the maximum number of persons who may lawfully occupy the property as the property is configured at the time of inspection.

118.1.4 *Required inspections:*

- (a) Except for any retirement village/community, prior to any change of ownership or occupancy of any property, the owner, lessor or agent shall request the director of public works or his/her designee to make an inspection of said property to determine compliance with the provisions of this code. There shall be a fee as provided for in Section 6-1(c) of this Code for such an inspection, which shall be paid before the inspection is made. The validity of the inspection expires one hundred eighty (180) days from the date of inspection, or with a change in occupancy, whichever occurs first. Before any change in occupancy, the prospective occupant must be given written notice of any violations that would be the basis for denial of issuance of a certificate of occupancy or compliance for the property.
- (b) The director of public works or his/her designee shall make an inspection of all retirement village/communities on an annual basis to determine compliance with the provisions of this code as they relate to the exterior of the building within which the retirement village/community is located, interior halls, interior stairwells, exit lights, generators, boiler rooms and elevators. All such annual inspections shall occur at a time designated by the director of public works, which time shall not be later than the later of (i) sixty (60) days before the expiration of the then current certificate of compliance for such retirement village/community, and (ii) twenty (20) days after the fee for such inspection has been paid to the city. There shall be a fee as provided in Section 6-1(c) of this Code for such an inspection, which shall be paid before the inspection is made. The validity of the inspection expires one (1) year from the date of the inspection.
- (c) After any inspection under Section 6-18-118.1.4 by the director of public works or his/her designee, an occupancy inspection report shall be issued by the director of public works or his/her designee and shall be given to the person requesting such an inspection, or in the case of a retirement village/community, the lessor/owner of the retirement village/community. A notice of such an inspection report shall be placed in a conspicuous place on the property, the form of which notice shall be provided by the city.
- (d) If no violations are found, the director of public works or his/her designee shall issue a certificate of compliance which, except for any retirement village/community, shall be valid for one hundred eighty (180) days from the date of inspection, unless revoked by the director of public works or his/her designee thereafter for good reason. For retirement village/communities, if no violations

are found, the director of public works or his/her designee shall issue a certificate of compliance which shall be valid until the following December 31, except that in the event a certificate of compliance is issued on or after October 1 of any calendar year, such certificate of compliance shall be valid until December 31 of the next calendar year, unless any such certificate of compliance is revoked by the director of public works or his/her designee thereafter for good reason.

118.1.5 *Certificate of compliance:*

- (a) It shall be unlawful for the owner, lessor or agent of any property to knowingly or otherwise allow occupancy of any property by a potential occupant or to cause the storage of the potential occupant's personal belongings in or on the property without first having obtained a certificate of compliance.
  - (1) If there are violations of this section or the code, which must be abated before a certificate of compliance can be issued, it shall be the responsibility of the seller, lessor, agent, purchaser or transferee to abate or correct these violations.
  - (2) The director of public works or his/her designee shall have the power as necessary and applicable, because of local climatic or other condition, to allow an owner, lessee or transferee to assume responsibility for abating or correcting specific violations of this section or the code by executing an affidavit that sets out the terms of the assumption of this responsibility and establishing a date by which the terms of the affidavit are to be accomplished. Said date shall in no case exceed one hundred twenty (120) days, and the director of public works or his/her designee shall not allow additional time to correct any deficiencies that will have the effect of endangering the public health, safety or general welfare of the occupants of the property or the community.
  - (3) This section shall not apply to any change in occupancy wherein the seller, lessor, agent, purchaser, lessee or any other transferee executes an affidavit to the director of public works or his/her designee that the property will be demolished within ninety (90) days of the change in occupancy.
- (b) In the case of a retirement village/community, it shall be unlawful for the owner, lessor or agent of any property to allow occupancy of any retirement village/community without having a valid certificate of compliance for such retirement village/community.
  - (1) If there are violations of this section or the code which must be abated before a new annual certificate of compliance can be issued, it shall be the responsibility of the owner, lessor, or agent to abate these violations.
  - (2) If the violations cannot be abated by the expiration date of the previous certificate of compliance, a conditional certificate of compliance may be issued by the director of public works or his/her designee if: (1) any deficiency or noncompliance with this code would not seriously endanger the health or safety of the occupants or the community; and (2) the owner executes an affidavit that all required corrections shall be made within the time specified therein. If approved by the director of public works or his/her designee in all respects, the retirement village/community may continue to be occupied while such corrections are being made. Upon the expiration of the time allowed in the conditional certificate of occupancy, all required corrections shall be completed or the retirement village/community shall be vacated. The director of public works or his/her designee may extend the time allowed in the permit for a period not to exceed one hundred eighty (180)

days if: (1) any deficiency or noncompliance with this code would not seriously endanger the health or safety of the occupants or the community; (2) the occupant has made substantial progress toward bringing the property into compliance with this code; and (3) all required corrections shall be made within the time allowed by the extension.

- (3) Failure of the owner of the retirement village/community to obtain the certificate of compliance as required by this code and to pay the fees set forth shall be deemed a violation and shall subject said owner to the penalties prescribed in Section 6-18-116.4 of this Code.

#### 118.1.6 *Certificate of occupancy:*

- (a) It shall be unlawful for any person or other entity to hereafter occupy or for the owner, lessor or agent to permit the occupancy of any property before a certificate of occupancy has been issued by the code official. Said certificate of occupancy shall not be issued until all of the following requirements have been met:
  - (1) The provisions of Sections 118.1.4 and 118.1.5 have been satisfied.
  - (2) A fee of twenty dollars (\$20.00) shall have been paid for a residential certificate of occupancy if such certificate is issued for property that is not rental property, or a fee of five dollars (\$5.00) shall have been paid for a retirement village/community unit (as defined in subsection 6-1(c)(1)d. of this Code) certificate of occupancy, or a fee of fifty dollars (\$50.00) shall have been paid for a commercial or any other type of certificate of occupancy.
  - (3) An application for the certificate of occupancy shall have been made on the forms provided by the city and shall include the following information:
    - (i) In the case of commercial occupancy, said application shall contain the name of the occupant, the type of business the occupant is engaged in, and the mailing address of the business along with the specific use or uses of the premises, and the names and home addresses of the business owner, the property owner and the business manager, if different from the owner.
    - (ii) In the case of the occupancy of any residential property not owned by the applicant, said application shall also contain the name, address and telephone number of the owner of the property or, in the event the applicant's lease for such property is entered into by a property manager/agent on behalf of the owner and the name, address and telephone number of the owner are not known to the applicant, the name, address and telephone number of said property manager/agent may be provided on said application in lieu of the owner's.
  - (4) The certificate of occupancy applicant must provide valid proof of the relationship between the family members to be listed on the certificate of occupancy, which proof may be by original or sealed copy of a marriage license, birth certificate, legal custody papers, adoption orders and/or other state supervised documents.
  - (5) If the applicant lives in a residence which is subject to a loan from a bank, savings and loan, credit union, mortgage bank or other type of lender, the certificate of occupancy applicant shall provide the name, the mailing address, and telephone number of said lender.
- (b) A certificate of occupancy is not required for a living unit within a retirement village/community. Subject to the requirements of subsection 6-18-118.1.5(b) of this Code, it shall not be unlawful for any person to hereafter occupy or for the owner, lessor or agent to permit the occupancy of a living unit within a retirement village/community without a certificate of occupancy.

#### 118.1.7 *False statements:*

- (a) It shall be unlawful for any person, firm or corporation to advertise, offer or represent in any form or manner that a certificate of compliance has been issued for any property for which such a certificate has not been issued by the director of public works or his/her designee.
- (b) It shall be unlawful for any person, firm or corporation to advertise, offer or represent in any form or manner that a property may be occupied by a number of persons in excess of that permitted by the most recent certificate of compliance or occupancy, or inspection report issued for that property.
- (c) It shall be unlawful for any person to knowingly make any false statement in an application for an occupancy permit or any amendment thereto.

118.1.8 *Conditional certificate of occupancy:*

- (a) A conditional certificate of occupancy may be issued by the director of public works or his/her designee if: (1) any deficiency or noncompliance with this code consists of exterior seasonal repairs such as painting, installing siding and seeding, strawing or sodding; and (2) the occupant executes an affidavit that all required corrections shall be made within the time specified therein. If approved by the director of public works or his/her designee in all respects, the property may thereafter be occupied while such corrections are being made.
- (b) Upon expiration of the time allowed in the conditional certificate of occupancy, all required corrections shall be completed or the director of public works or his/her designee shall file a complaint with the court seeking enforcement of this code. The director of public works or his/her designee may extend the time allowed in the permit for a period not to exceed one hundred eighty (180) days if: (1) the occupant has made substantial progress toward bringing the property into compliance with this code; and (2) all required corrections shall be made within the time allowed by the extension.
- (c) At such time as the property shall be in compliance with the requirements of this code, an occupancy permit shall be issued.
- (d) A fee of fifty dollars (\$50.00) shall be paid for a conditional residential certificate of occupancy if such certificate is issued for property that is not rental property or a fee of seventy-five dollars (\$75.00) shall be paid for a conditional commercial certificate of occupancy or any other type of certificate of occupancy. This fee shall apply for the first two (2) inspections performed under this section. Fees for residential inspections shall be fifty dollars (\$50.00) per inspection thereafter and fees for commercial inspections shall be fifty dollars (\$50.00) per inspection thereafter.

118.6 *Certificate required:* Failure of the owner or tenant of a building to obtain the certificate of occupancy as required by this code and to pay the fees set forth shall be deemed a violation and shall subject said owner or tenant to the penalties prescribed in Section 116.4.

118.7 *Revocation of certificate:* The certificate of use and occupancy shall also be subject to this code. Noncompliance with the regulations of this code shall be deemed a violation subject to the penalties set forth herein, and in addition, the code official shall be empowered to revoke the occupancy permit, or permits, issued for the building in question, until such time as the violations are corrected. All costs involved in this procedure shall be assessed against the owner and create a lien against the property in violation of the code. The issuance of an occupancy permit shall not relieve the owner or tenant from compliance with all regulations of this code and other applicable regulations.

119.3.1 *Posting:* If an unsafe condition is found, in addition to serving the notice as required by Section 119.3, the director of public works shall post the notice required by Section 119.3 in some prominent place on the premises. Such notice shall be in substantially the following form:

## NOTICE OF DECLARATION OF NUISANCE

PURSUANT TO THE PROVISIONS OF SECTION 119.0 OF ORDINANCE NO. \_\_\_\_\_, THE BUILDING OR STRUCTURE DESCRIBED BELOW HAS BEEN DECLARED A PUBLIC NUISANCE.

(Insert address or other adequate description of building or structure.)

NO PERSON MAY ENTER THIS BUILDING or structure or any part thereof after \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, 19\_\_\_\_\_. After such date, no person shall occupy or enter this building or structure or any part thereof, except persons directly employed in securing, repairing, or removing such building or structure and working under the authorization of a Demolition or Building Permit.

This building or structure shall be repaired or demolished and removed from the premises no later than 30 days after the service of a copy of this notice upon the affected parties or the publication of said notice as required by Ordinance. Prior to the commencement of any work to demolish this building or structure it shall be necessary to obtain the authorization therefor from the code official or City of Black Jack, Missouri. Upon the presentation of adequate plans, the code official may authorize the repair or completion instead of demolition.

IF THE REPAIR OR DEMOLITION OF THIS BUILDING OR STRUCTURE HAS NOT BEEN BEGUN AND CARRIED FORTH PROMPTLY WITHIN THE TIME PERIOD STATED ABOVE, THE BUILDING OFFICIAL OR A DESIGNATED HEARING OFFICER MAY, AFTER HEARING, ORDER THE BUILDING OR STRUCTURE REPAIRED OR DEMOLISHED. THE COSTS OF REPAIR OR DEMOLITION, TOGETHER WITH THE EXPENSES OF ADMINISTRATION WILL BE IMPOSED AGAINST THE PROPERTY AS A SPECIAL TAX LIEN.

The order may be appealed by any affected party to the Circuit Court of St. Louis County, Missouri as provided by law.

120.1.1 *Leak testing methods:* The code official may require tests to be made at any storage or dispensing facility where flammable or toxic liquids, fumes or vapors are detected. The tests shall be conducted by a fully qualified person. The test procedures used shall conform to the recommended practices outlined in NFPA 329, 1996 Edition. A written certificate of the results of these tests shall be submitted to the code official as soon as possible following completion of the tests. The code official may order immediate remedial action by the owner or occupant to correct any defects detected as a result of the test. The building official may order evacuation of any structure or premises if the presence of flammable, combustible or toxic liquids or fumes constitutes a direct and imminent danger to the occupants until the danger from fire, explosion or toxicity is abated.

121.0 *Means of appeal.* Deleted.

507.3 *Roof vents: The roof systems of one story buildings of unlimited area, when of types 2, 3 or 4 construction, shall be provided with smoke and heat vents.*

507.3.1 *Vent size and spacing:* Smoke and heat vents shall be spaced at a maximum spacing of one hundred fifty (150) feet between centers. One (1) square foot of open vent area is required per three hundred (300) square feet of floor area.

507.3.2 *Releasing devices:* Vents shall be capable of being opened by an approved manual operation at a location approved by the department of public works. Vents may also be capable of being opened by an approved automatic actuation device set to operate at a temperature of not less than three hundred fifty (350) degrees F.

1005.5.1 *Screen porches:* Porches and decks which are enclosed with insect screening shall be provided with guards in accordance with Section 1021.0.

1005.6 *Elevation change:* Where changes in elevation exist in the means of egress, ramps complying with Section 1016.0 shall be used where the difference in elevation is less than 12 inches (305 mm). The ramp shall be equipped either with handrails or with floor finish materials that contrast with adjacent floor finish materials.

*Exceptions:*

1. A maximum step height of 8 inches (203 mm) shall be permitted for buildings with occupancies in Use Groups F, H, R, S and U at exterior doors not required to be accessible by Chapter 11.
2. Fewer than three (3) risers shall be permitted without guards or handrails in Use Groups R-3 and R-4. The treads and risers shall comply with Section 1014.6.

1014.6 *Treads and risers:* Maximum riser height shall be 7 inches (178 mm) and minimum riser height shall be 4 inches (102 mm). The riser height shall be measured vertically between the leading edges of the adjacent treads. Minimum tread depth shall be 11 inches (279 mm), measured horizontally between the vertical planes of the foremost projection of adjacent treads and at a right angle to the tread's leading edge.

*Exceptions:*

1. Winders in accordance with Section 1014.6.3.
2. Spiral stairways in accordance with Section 1014.6.4.
3. Circular stairways in accordance with Section 1014.6.5.
4. Alternating tread stairways in accordance with Section 1014.6.6.
5. Stairways serving as aisles in assembly seating areas where the stairway pitch or slope is set, for sight line reasons, by the slope of the adjacent seating area.
6. Any stairway replacing an existing stairway within a space where, because of existing construction, the pitch or slope cannot be reduced.
7. Existing stairways.
8. In occupancies of Use Groups R-3 or R-4, within dwelling units in occupancies of Use Group R-2 and in occupancies of Use Group U which are accessory to an occupancy of Use Group R-3, the maximum riser height shall be 8¼ inches (210 mm) and the minimum tread depth shall be 9 inches (229 mm).
9. Stairways in penal facilities serving guard towers, observation stations and control rooms not more than 250 square feet (23m<sup>2</sup>) in area shall be permitted to have risers not exceeding 8 inches (203 mm) in height and treads not less than 9 inches (229 mm) in depth.

3408.2 *Applicability:* Structures existing prior to July 1, 1998, in which there is work involving additions, alterations or changes of occupancy, shall be made to conform to the requirements of this section or the provisions of Sections 3403.0 through 3407.0.

The provisions in Sections 3408.2.1 through 3408.2.5 shall apply to existing occupancies that will continue to be, or are proposed to be, in Use Groups A, B, E, F, M, R and S. These provisions shall not apply to buildings with occupancies in Use Group H or I.

(Ord. No. 335, § 4, 4-16-85; Ord. No. 464, § 4, 3-19-91; Ord. No. 634, § 8, 6-16-98; Ord. No. 659, §§ 1, 2, 8-3-99; Ord. No. 692, § 2, 8-1-00; Ord. No. 738, §§ 3—5, 12-4-01; Ord. No. 729, §§ 1—3, 10-2-01; Ord. No. 782, § 1, 2-18-03; Ord. No. 827, § 1, 7-6-04; Ord. No. 896, § 1, 12-5-06; Ord. No. 976, § 2, 6-16-09)

Sec. 6-19. - Permit fees.

The director of public works, or other appropriate official, shall charge the following fees for inspections, permits and plan review relating to building construction, which shall include, without limitation, roof construction, as follows:

- (1) Permit fee:
  - a. Minimum fee up to and including \$1,000.00 (Estimated cost of construction) .....\$50.00
  - b. Each additional \$1,000.00 or fraction thereof .....5.00
- (2) In addition to the building permit fee, an inspection fee shall be levied for each initial inspection as follows:
  - a. Footings .....\$25.00
  - b. Foundation .....25.00
  - c. Ground rough plumbing .....25.00
  - d. Rough plumbing .....25.00
  - e. Rough framing .....25.00
  - f. Rough electrical .....25.00
  - g. Temporary electric on permanent structure .....25.00
  - h. Temporary electric on pole .....25.00
  - i. Mechanical .....25.00
  - j. Final .....25.00
- (3) A twenty-five dollar (\$25.00) fee shall be charged for each additional inspection that the director of public works, or other appropriate official, deems necessary in the interest of public safety and welfare. A twenty-five dollar (\$25.00) fee shall be charged for each re-inspection due to noncompliance with approved plans or applicable code requirements.
- (4) A one hundred dollar (\$100.00) fee shall be charged for the review of each construction plan.

(Ord. No. 277, § 4, 2-1-83; Ord. No. 596, § 1, 6-18-96; Ord. No. 720, § 1, 8-21-01; Ord. No. 854, § 2, 3-15-05)

**Editor's note—** Ord. No. 277, adopted Feb. 1, 1983, amending this section, was approved at an election held April 5, 1983.

Sec. 6-20. - Savings clause.

Nothing in this article [Ordinance Number 634] or in the building code hereby adopted, shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article.

(Ord. No. 464, § 5, 3-15-91; Ord. No. 634, § 9, 6-16-98)

Sec. 6-21. - Validity.

If any section, subsection, provision, sentence, clause or phrase of this ordinance or of the BOCA National Building Code/1996, Thirteenth Edition, or of the amendments to the BOCA National Building Code/1996, Thirteenth Edition, is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article or of said building code, and the city council hereby declares that it would have passed the same, even though such portion so held to be unconstitutional had not been included therein.

(Ord. No. 464, § 6, 3-19-91; Ord. No. 634, § 10, 6-16-98)

Sec. 6-22. - Means of appeal.

- (a) *Jurisdiction of board of appeals.* The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by an aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his or her deputy or any other person charged with the enforcement of this article.
- (b) *Filing procedure; cost of appeal.*
  - (1) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works or his or her deputy, the applicable fee established by ordinance for the filing of a notice of appeal as a nonrefundable deposit for the costs of said appeal.
  - (2) The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.
- (c) *Stay of proceedings.* An appeal pursuant to this section shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his or her deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.
- (d) *Information to be furnished to board of adjustment.* It shall be the duty of the director of public works, or his or her deputy, to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and requested by the board.
- (e) *Notice and hearing.* The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his or her attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.
- (f) *Action and decision of board.*
  - (1) In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.
  - (2)

The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.

(g) *Review of decisions of board.*

- (1) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
- (2) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
- (3) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 634, § 11, 6-16-98)

Secs. 6-23—6-35. - Reserved.

ARTICLE III. - ELECTRICITY<sup>[3]</sup>

*Footnotes:*

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**Editor's note**—*The caption of Ord. No. 330, adopted March 5, 1985, repealed Ord. No. 236, enacted May 20, 1980, from which former Art. III, relative to electricity was derived. Sections 1—4 of said Ord. No. 330 enacted provisions not specifically amendatory of the Code, which provisions have been included herein at the discretion of the editor as new §§ 6-36, 6-37, and 6-39—6-41. Former § 6-39 relative to permits, inspections and fees and derived from Ord. No. 277, § 2, adopted Feb. 1, 1983, has been redesignated as § 6-38 to maintain continuity in the numbering of sections in this article.*

Sec. 6-36. - National Electrical Code—Adopted.

A certain document, copies of which are filed in the office of the city clerk said copies being marked and designated as the "National Electrical Code, 1996 Edition," published by the National Fire Protection Association, as modified, is hereby referred to, adopted and made a part thereof as if fully set out in this article.

(Ord. No. 330, § 1, 3-5-85; Ord. No. 634, § 12, 6-16-98; Ord. No. 968, § 1, 3-17-09; Ord. No. 1005, § 1, 9-7-10)

Sec. 6-37. - Same—Amendments.

The National Electrical Code, as adopted in Section 6-36 is hereby amended in the following respects:

*Section 210-52(c)(3)* is deleted in its entirety.

*Section 210-52(d)* is amended by deleting from said Section the sentence "Such circuits shall have no other outlets."

*Section E-101.0* is hereby added and shall read as follows:

SECTION E-101.0 APPLICABILITY

*E-101.1 Scope:* This code shall regulate the design, installation, maintenance, alteration and inspection of the electrical systems that are permanently or temporarily installed and utilized to provide electric power and related processes within buildings, structures or premises. This code shall also regulate those electrical system components, equipment and appliances specifically addressed in this code.

*E-101.2 Matters Not Provided For:* Any electrical requirements essential for the safety of an existing or proposed building or structure, or essential for the safety of the occupants thereof, and which is not specifically covered by this code shall be determined by the electrical official.

*E-101.3 Continuation of Unlawful Use:* The continuation of occupancy or use of a building or structure, or of a part thereof, contrary to the provisions of this code, shall be deemed a violation and subject to the penalties prescribed in Section E-117.0.

*Section E-102.0* is hereby added and shall read as follows:

#### SECTION E-102.0 VALIDITY

*E-102.1 Partial Invalidity.* In the event any part or provisions of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof, which may or shall be determined to be legal; and it shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.

*E-102.2 Segregation of Invalid Provisions:* Any invalid part of this code shall be segregated from the remainder of this code by the court holding such part invalid, and the remainder shall remain effective.

*E-102.3 Existing Structures:* The invalidity of any provision in any section of this code as applied to existing buildings and structures shall not be held to affect the validity such section in its application to buildings and structures hereafter erected.

*Section E-103.0* is hereby added and shall read as follows:

#### SECTION E-103.0 EXISTING ELECTRICAL SYSTEMS

*E-103.1 Application:* This code shall apply to existing electrical systems as described in this Section.

*E-103.2 Alteration or Repairs:* Alterations or repairs may be made to any electrical system without requiring the existing electrical to comply with all the requirements of this code, provided such work conforms to that required for a new electrical system. Alterations or repairs shall not cause an existing electrical system to become unsafe or adversely affect the performance of the electric.

*E-103.3 Additional Loads:* Where additions or alterations subject parts of existing systems to loads exceeding those permitted herein, such parts shall be made to comply with this code.

*Section E-104.0* is hereby added and shall read as follows:

#### SECTION E-104.0 EXISTING USE

*E-104.1 Continuation:* The legal use and occupancy of any structure after March 5, 1985, or for which it had been heretofore approved, may be continued without change except as may be specifically covered in this code or deemed necessary by the electrical official for the general safety and welfare of the occupants and the public.

*E-104.2 Change In Use:* It shall be unlawful to make any change in the use of any structure which would subject it to any special provision of this code without approval of the building commissioner, and certification that such structure meets the intent of the provisions of law governing building construction for the proposed new use and occupancy and that such change does not result in any hazard to public health, safety or welfare.

*Section E-105.0* is hereby added and shall read as follows:

#### SECTION E-105.0 REPAIRS AND MAINTENANCE

*E-105.1 Ordinary Repairs:* Minor repairs or replacements of any existing system may be made in the same manner and arrangement as in the existing system, provided such repairs or replacements are made in a safe manner and are approved by the building commissioner.

*E-105.2 Maintenance:* All electrical systems, both existing and new, shall be maintained in a safe and sanitary condition. All service equipment, devices and safeguards which are required by this code or which were required in a building or structure by previous statute, shall be maintained in good working order when erected, altered or repaired.

*E-105.3 Owner Responsibility:* The owner or designated agent shall be responsible for the safe maintenance of the electrical system in any building or structure at all times.

*Section E-106.0* is hereby added and shall read as follows:

#### SECTION E-106.0 DEMOLITION OF STRUCTURES

*E-106.1 Service Connections:* Before a structure can be demolished or removed, the owner or agent shall notify all utilities having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utilities, stating that their respective service connections, and appurtenant equipment such as meters and regulators, have been removed in a safe manner.

*Section E-107.0* is hereby added and shall read as follows:

#### SECTION E-107.0 MOVED STRUCTURES

*E-107.1 General:* Buildings and structures moved into or within the jurisdiction shall comply with the provisions of this code for new buildings or structures.

*E-107.2 Historic Buildings:* The provisions of this code relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the code official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings.

*Section E-108.0* is hereby added and shall read as follows:

#### SECTION E-108.0 BUILDING OFFICIAL AUTHORITY

*E-108.1:* The building commissioner is vested with the executive and administrative authority to see that all laws, ordinances and codes regulating electrical and installations are observed and enforced in accordance with the administrative practices established.

*Section E-109.0* is hereby added and shall read as follows:

*E-109.0:* The building commissioner may promulgate reasonable regulations for the purpose of effective administration and enforcement of the chapter.

*Section E-110.0* is hereby added and shall read as follows:

#### SECTION E-110.0 POWERS AND DUTIES OF THE BUILDING COMMISSIONER

*E-110.1:* It shall be the duty of the building commissioner to cause an inspection to be made of all electrical installations for which permits have been issued, in a manner and to the extent necessary to carry out the provisions of the code regulating electrical installations of all buildings and premises, public and private, in the course of erection, alteration, reconstruction or repair and cause the inspection of existing electrical installation as often as may be necessary. He shall see that all electrical work is done in accordance with the provisions of this code and that the work is done by persons duly authorized to do such work. He shall have the power to recommend suspension or revocation under the section, "Hearings and Revocation of Licenses." The supervisor of electrical inspection is authorized and directed to order the electrical power company to forthwith disconnect electric service, power or current to any building, structure or premise that is in violation of any of the provisions of this code or where electrical wiring, installation or apparatus in such building, structure or premises is unsafe to person or property. The building commissioner and his authorized representative shall carry proper credentials of their office, upon exhibition of which they shall have the right of entry during usual business hours to inspect any and all buildings and premises in the performance of their duties. No person shall hinder, obstruct, resist or otherwise interfere with the building commissioner or his authorized representative which they are exercising the above designated right of entry. This shall apply to all electrical construction, repairs, modifications and maintenance within the jurisdiction of the City of Black Jack, Missouri.

*E-110.2 Relief From Personal Responsibility.* The electrical official, officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby render himself liable personally, and he is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his official duties. Any suit instituted against any officer or employee because of an act performed by him in the lawful discharge of his duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The electrical official or any of his subordinates shall not be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of this code; and any officer of the department of electrical inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of his official duties in connection therewith.

*Section E-111.0* is hereby added and shall read as follows:

#### SECTION E-111.0 LICENSING, CERTIFYING, AND BONDING ELECTRICAL CONTRACTORS

*E-111.1:* Any contractor wishing to enter into the electrical contracting business within the City of Black Jack, Missouri, shall first be duly examined and successfully passed and licensed by the Board of Electrical Examiners of St. Louis County, Missouri.

*E-111.2 Qualifications:* The applicant for an electrical contractor's license within the City of Black Jack, Missouri shall be licensed as provided in paragraph E-111.1 and shall be bonded. Said license and bond shall be submitted to the building commission for review and approval.

*Section E-112.0* is hereby added and shall read as follows:

#### SECTION E-112.0 PROHIBITED ACTS

*E-112.1:* Willful or deliberate disregard and violations of the building, plumbing, electrical, sanitary, fire and health ordinances of the City of Black Jack or failure to abate violations of those ordinances, is prohibited.

*Section E-113.0* is hereby added and shall read as follows:

#### SECTION E-113.0 PERMIT REQUIRED

*E-113.1:* No person, firm, corporation, institution or organization shall begin any work of installing, erecting or altering material, wiring, fixtures, or other apparatus, to be used for generation, transmission and utilization of electricity in and on buildings and premises in the territory subject to the provisions of these regulations unless and until written application shall have been filed in the city clerk's office for a permit to do the work contemplated at least twenty-four (24) hours before such work shall be commenced, such application shall describe in detail the nature of such work and shall give the location thereof by street and number and shall bear the date of beginning such work and the tentative date of completion thereof. No person, firm, corporation, institution or organization shall begin such work unless and until a permit shall have been obtained. In the event of an emergency, work may begin by securing permission from said office upon condition that written application be filed in said office without delay. No permit issued under the provisions of these regulations shall be assignable or transferable or be used to aid or abet any unlicensed person, firm, or corporation in the performance of electrical work.

*Section E-114.0* is hereby added and shall read as follows:

#### SECTION E-114.0 FIRMS OR CORPORATION

*E-114.1:* Any firm or corporation in the business of installing electrical or communication work shall employ a duly licensed supervisor, under the provisions of this code, who shall be responsible for installations made by said firm or corporation.

*Section E-115.0* is hereby added and shall read as follows:

#### SECTION E-115.0 USE OF LICENSEE'S NAME BY ANOTHER

*E-115.1:* No person having obtained a license under the provision of this code shall allow his name to be used by another person, either for the purpose of obtaining permits, or for doing business or work under the license.

*E-115.2 Licenses Not Assignable:* A license or registration issued under this code is assigned to the person named therein. No license or registration certificate or the rights, duties and privileges attendant thereto, shall be assigned or transferred to another person, company or partnership. When the duties and privileges of a license are to be exercised within a company or partnership, all of the principals or partners of that company or partnership must be registered with the board thirty (30) days prior to exercising the rights and privilege of the license.

*Section E-116.0* is hereby added and shall read as follows:

#### SECTION E-116.0 INSPECTIONS

*E-116.1:* The building commissioner shall make all the required inspections, or may accept reports of inspection by authoritative and recognized services or individuals. All reports of such inspections shall be in writing and certified by a responsible officer of such authoritative services or by the responsible individual. The building commissioner may engage such expert opinion as may be deemed necessary to report on unusual technical issues that may arise, subject to approval by the appointing authority.

*E-116.2 Credentials:* The building commissioner or his authorized representative shall carry proper credentials of office for the purposes of inspecting any and all buildings and premises in the performance of their duties.

*Section E-117.0* is hereby added and shall read as follows:

#### SECTION E-117.0 DEPARTMENT RECORDS

*E-117.1:* The building commissioner shall keep official records of applications received, permits and certificates issued, reports of inspections, and notices and orders issued. Such records shall be retained in the official records so long as the building or structure to which they relate remains in existence unless otherwise provided by other regulations.

*Section E-118.0* is hereby added and shall read as follows:

#### SECTION E-118.0 BY WHOM APPLICATION IS MADE

*E-118.1:* Application for a permit shall be made by the person, or an agent, to install all or part of any electrical system. The applicant shall meet all qualifications established by rules promulgated with the code or by ordinance, resolution, or statute. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

*E-118.2:* A permit may be issued only to a contractor or firm licensed as described in Section E-111.0.

*Exception:* Bonafide homeowners qualified by the building commissioner to make modifications to an existing electrical system in the residence in which they live.

*Section E-119.0* is hereby added and shall read as follows:

#### SECTION E-119.0 PLANS AND SPECIFICATIONS

*E-119.1:* If in the course of the work, it is found necessary to make any change from the approved plans and specifications on which a permit has been issued, amended plans and specifications shall be submitted and if approved, a supplementary permit shall be issued to cover the change after the same conditions required to secure the original permit have been satisfied.

*E-119.2:* No person, firm, corporation, institution or organization shall begin any work of installing, erecting or altering material, wiring, fixtures or other apparatus, to be used for generation, transmission and utilization of electricity in this jurisdiction until an appropriate permit to do that work has been applied for and obtained. The application for an electrical permit shall describe in detail the nature of such work, shall give the location thereof, shall be accompanied by at least two (2) sets of plans and specifications bearing the seal of an engineer authorized to perform engineering work in the State of Missouri and shall contain an accurate description and count of electrical fixtures to be installed. The building commissioner may waive the need for these plans when the work involved is of a minor nature or can be described adequately by other means.

*Section E-120.0* is hereby added and shall read as follows:

#### SECTION E-120.0 FEES

*E-120.1 General:* A permit to begin work for new construction or alteration shall not be issued until the application and permit fees prescribed have been paid. Nor shall an amendment to a permit necessitating an additional fee because of the additional work involved be issued until the additional fee shall have been paid.

*E-120.2 Fee Schedule* The permit fees for all electrical work shall be as established by ordinance.

*Section E-121.0* is hereby added and shall read as follows:

#### SECTION E-121.0 VIOLATIONS

*E-121.1 Unlawful Acts:* It shall be unlawful to install, extend, alter, repair, or maintain electrical systems in or adjacent to buildings except in conformity with this code.

*E-121.2 Notice:* The building commissioner shall serve a notice of violation or order on the person responsible for the installation of electrical work in violation of a detailed statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

*E-121.3 Prosecution:* If the notice of violation is not complied with promptly, the building commission shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful use of any electrical system in violation of the provisions of this code or of the order or direction made pursuant thereto.

*E-121.4 Penalties:* Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall install electrical work in violation of an approved plan or directive of the building commissioner, or a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of no less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or imprisonment not exceeding ninety (90) days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

*E-121.5 Abatement:* The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or use of a building or structure in or about any premises.

*Section E-122.0* is hereby added and shall read as follows:

#### SECTION E-122.0 STOP WORK ORDER

*E-122.1 Notice:* Upon notice from the building commissioner that work on any building or structure is being prosecuted contrary to the provisions of this code in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which the work may resume.

*E-122.2 Unlawful Continuance:* Any person who shall continue any electrical work or about the structure after having been served with a stop work order, except such work that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).

*Section E-123.0* is hereby added and shall read as follows:

#### SECTION E-123.0 TEMPORARY OCCUPANCY

*E-123.1:* Upon the request of the holder of a permit, the building commissioner may issue a temporary authorization before the entire work covered by the permit shall have been completed, provided such portion or portions may be put into service safely prior to full completion of the building or structure without endangering health or public welfare.

*Section E-124.0* is hereby added and shall read as follows:

#### SECTION E-124.0 UNSAFE CONDITIONS

*E-124.1 General:* All electrical installations, regardless of type, constituting a hazard to human life, health, or welfare are hereby declared illegal and shall be abated by repair and rehabilitation or removal.

*Section E-125.0* is hereby added and shall read as follows:

#### SECTION E-125.0 EMERGENCY MEASURES

*E-125.1 Vacating Structures:* When, in the opinion of the building commissioner there is actual and immediate danger or hazard which would endanger life, the building commissioner hereby is authorized and empowered to order and require the occupants to vacate a structure forthwith. The building commissioner shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its use or occupancy has been prohibited by the building commissioner." It shall be unlawful for any person to enter such a structure except for the purpose of making the required repairs or removal.

*Section E-127.0* is hereby added and shall read as follows:

#### SECTION E-127.0 NOTICE OF APPEAL

*E-127.1:* A notice of appeal shall be filed in writing, with the building official and directed to the board of adjustment specifying the grounds thereof and the relief prayed for. The building official shall forthwith transmit to the board of adjustment all papers constituting the record upon which the decision, either shall affirm, modify or set aside the decision.

(Ord. No. 330, § 1, 3-5-85; Ord. No. 634, §§ 13—18, 6-16-98; Ord. No. 896, § 1, 12-5-06)

Sec. 6-38. - Permits, inspections and fees.

- (a) No person shall do any electrical work without a permit. Upon completion of any electrical installation for which a permit has been issued, the permittee shall notify the office of the director of public works and a final inspection shall be made. The director of public works shall cause to be made as many interim inspections as he deems necessary. No installation shall be covered or concealed until inspected.
- (b) The director of public works, or other appropriate official, shall charge the following fees for a permit and inspections relating to electrical installations, replacements, repairs, upgrades and additions of the following items:
  - (1) Air conditioner .....\$50.00
  - (2) Communication wiring .....50.00
  - (3) Alarm system .....50.00
  - (4) Heating equipment .....50.00
  - (5) Motors/generators .....50.00
  - (6) Elevator and equipment room .....100.00
  - (7) Communications switchboard .....100.00
  - (8) Electric panels, each .....50.00
  - (9) Transformers, each .....100.00
  - (10) Boiler .....50.00
  - (11) Installation of circuits, switches, sockets and receptacles .....50.00
  - (12) Re-inspection of buildings on which electrical service has been disconnected .....100.00
- (c) The director of public works, or other appropriate official, shall charge a twenty-five dollar (\$25.00) fee for the review of each electrical plan.

(Ord. No. 277, § 2, 2-1-83; Ord. No. 596, § 2, 6-18-96; Ord. No. 720, § 2, 8-21-01; Ord. No. 854, § 3, 3-15-05)

**Editor's note—** Ord. No. 277, adopted Feb. 1, 1983, amending subsection (b) of this section, was approved at an election held Apr. 5, 1983.

**Note—** See the editor's note to Art. III of this chapter.

Sec. 6-39. - Article not to affect court proceedings; rights, liability, etc.

Nothing in this article (Ordinance Number 634] or in the electrical code hereby adopted, shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein; nor shall any just or legal right or remedy of any character be lost, impaired, or affected by this article [Ordinance Number 634].

(Ord. No. 330, § 2, 3-5-85; Ord. No. 634, § 19, 6-16-98)

Sec. 6-40. - Validity.

If any section, subsection, provision, sentence, clause or phrase of this article or of the National Electrical Code, 1996 Edition, or of the amendments to the National Electrical Code, 1996 Edition, is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article or of said code, and the city council hereby declares that it would have passed the same, even though such portion so held to be unconstitutional had not been included therein.

(Ord. No. 330, § 3, 3-5-85; Ord. No. 634, § 20, 6-16-98)

Sec. 6-41. - Violation; penalties.

Any person, firm or corporation who shall violate any provisions of this article [Ordinance Number 634], or who shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter or repair a structure in violation of an approved plan or directive of the electrical official, or of a permit or certificate issued under the provisions of this article [Ordinance Number 634], or shall start any work requiring a permit without first obtaining a permit therefor, or who shall continue any work in or about a structure after having been served a stop work order, except for such work which that person, firm or corporation has been directed to perform to remove a violation or unsafe condition, shall upon conviction thereof be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding three hundred sixty-five (365) days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

(Ord. No. 330, § 4, 3-5-85; Ord. No. 634, § 21, 6-16-98)

Sec. 6-42. - Means of appeal.

- (a) *Jurisdiction of board of appeals.* The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by an aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his or her deputy or any other person charged with the enforcement of this article.
- (b) *Filing procedure; cost of appeal.*
  - (1) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works or his or her deputy, the applicable fee established by ordinance for the filing of a notice of appeal as a nonrefundable deposit for the costs of said appeal.

(2)

The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.

- (c) *Stay of proceedings.* An appeal pursuant to this section shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his or her deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.
- (d) *Information to be furnished to board of adjustment.* It shall be the duty of the director of public works, or his or her deputy, to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and requested by the board.
- (e) *Notice and hearing.* The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his or her attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.
- (f) *Action and decision of board.*
  - (1) In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.
  - (2) The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.
- (g) *Review of decisions of board.*
  - (1) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
  - (2) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
  - (3) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 634, § 22, 6-16-98)

Secs. 6-43—6-55. - Reserved.

#### ARTICLE IV. - ENERGY CONSERVATION

Sec. 6-56. - Energy Code—Adopted.

A certain document, copies of which were placed on file in the office of the city clerk, said copies being marked and designated as the International Energy Conservation Code, 1998 Edition, as published by the International Code Council, be and is hereby adopted as the energy conservation code of the City of Black

Jack for the regulation of the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of the building envelope, mechanical, lighting and power systems in the city; and each and all of the regulations, provisions, conditions, and terms of the International Energy Conservation Code, 1998 Edition, are hereby adopted and made a part hereof as if fully set out in this article, with the additions, insertions, deletions, and changes, prescribed in this article.

(Ord. No. 225, §§ 1, 2, 12-18-79; Ord. No. 634, § 23, 6-16-98)

Sec. 6-57. - Same—Interpretation.

The International Energy Conservation Code, 1996 [1998] Edition, shall be construed to secure its expressed intent which is to insure public safety, health and welfare insofar as they are affected by rising energy costs, energy conservation requirements and reduction in energy consumption.

(Ord. No. 225, § 3, 12-18-79; Ord. No. 634, § 24, 6-16-98)

Sec. 6-58. - Jurisdictional titles.

Throughout the International Energy Conservation Code, 1998 Edition, whenever the term "name of jurisdiction" or "local jurisdiction" appears it shall be deemed to mean "City of Black Jack, Missouri," and whenever the term "building official" appears it shall be deemed to mean "director of public works."

(Ord. No. 225, § 5, 12-18-79; Ord. No. 634, § 25, 6-16-98)

Sec. 6-59. - Inspections.

Inspections for compliance with this article will be included with the inspections for compliance with the building code of the city.

(Ord. No. 225, § 6, 12-18-79)

Sec. 6-60. - Enforcement officer.

The director of public works shall have the responsibility of issuing all building and occupancy permits when requestors have complied with the city's building code and this article. In the absence of the director of public works, or in the event that he cannot perform his duties, the city council will have the power to appoint someone to perform these duties, for purposes of this article.

(Ord. No. 225, § 4, 12-18-79)

Sec. 6-61. - Violations.

Any person who shall violate a provision of this article or shall fail to comply with any of the requirements thereof or who shall erect, or construct a building or structure in violation of an approved plan or directive of the director of public works, shall be guilty of an offense.

(Ord. No. 225, § 7, 12-18-79)

Sec. 6-62. - Validity.

If any section, subsection, provision, sentence, clause or phrase of this article or of the International Energy Conservation Code, 1998 Edition, or of the amendments to the International Energy Conservation Code, 1998 Edition, is, for any reason, held to be unconstitutional or invalid, such decision shall not affect

the validity of the remaining portions of this article or of said code, and the city council hereby declares that it would have passed the same, even though such portion so held to be unconstitutional had not been included therein.

(Ord. No. 634, § 26, 6-16-98)

Sec. 6-63. - Article not to affect court proceedings, rights, liability, etc.

Nothing in this article [Ordinance Number 634] or in the energy conservation code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article [Ordinance Number 634].

(Ord. No. 634, § 27, 6-16-98)

Sec. 6-64. - Means of appeal.

- (a) *Jurisdiction of board of appeals.* The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by an aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his or her deputy or any other person charged with the enforcement of this article.
- (b) *Filing procedure; cost of appeal.*
  - (1) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works or his or her deputy, the applicable fee established by ordinance for the filing of a notice of appeal as a nonrefundable deposit for the costs of said appeal.
  - (2) The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.
- (c) *Stay of proceedings.* An appeal pursuant to this section shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his or her deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.
- (d) *Information to be furnished to board of adjustment.* It shall be the duty of the director of public works, or his or her deputy, to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and requested by the board.
- (e) *Notice and hearing.* The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his or her attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.
- (f) *Action and decision of board.*
  - (1)

In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.

- (2) The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.

(g) *Review of decisions of board.*

- (1) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
- (2) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
- (3) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 634, § 28, 6-16-98)

Secs. 6-65—6-75. - Reserved.

ARTICLE V. - HOUSING CODE<sup>[4]</sup>

*Footnotes:*

— (4) —

**Cross reference**— *Fair Housing Code, § 9.5-21 et seq.*

DIVISION 1. - GENERALLY

Sec. 6-76. - Definitions.

- (a) For the purpose of this article, the following words and phrases shall have the meaning respectively ascribed to them by this section:

*Accessory structure.* A detached structure subordinate to the main or principal structure and located on the same lot, the use of which is customary to the main building.

*Basement.* That portion of a building having its floor level below the surface of the ground immediately adjoining it.

*Bathroom.* A room containing bathing and sanitary facilities provided within each living unit consisting of a water closet, a tub or shower and a lavatory; a bathroom shall afford complete privacy.

*Deterioration.* The condition or appearance of a building or part thereof, characterized by breaks, holes, rot, crumbling, cracking, peeling, rusting, or other evidence of physical decay or neglect, excessive use of, or lack of maintenance.

*Dwelling unit.* One (1) or more rooms in a building designed for occupancy by one (1) family for living purposes and having its own permanently installed cooking and sanitary facilities.

*Extermination.* The control and elimination of insects, rodents or other pests by eliminating their harborage places, by removing or making inaccessible materials that may serve as their food or by poisoning, spraying, fumigating, trapping; or by other recognized and legal pest elimination methods approved by the county health department.

*Family.*

- (1) An individual living as a single nonprofit housekeeping unit in a dwelling unit;
- (2) Two (2) or more persons related by blood, marriage, adoption or foster care relationship living together as a single nonprofit housekeeping unit in a dwelling unit;
- (3) A group of not more than three (3) persons who need not be related by blood, marriage, adoption or foster care relationship, living together as a single nonprofit housekeeping unit in a dwelling unit; or
- (4) Two (2) unrelated individuals plus the biological, adopted, or foster children of either such individuals, living together as a single, nonprofit housekeeping unit in a dwelling unit.

*Garbage.* The word "garbage" means putrescible animal and vegetable wastes resulting from handling, preparation, cooking and consumption of food.

*Habitable building.* Any structure or part thereof that shall be used as a home or place of abode by one (1) or more persons.

*Habitable room.* Every room in any building in which persons sleep, eat or carry on their usual domestic or social vocations and avocations. It shall not include private laundries, bathrooms, toilet rooms, pantries, storerooms, corridors, rooms for mechanical equipment for service in the building, or other similar spaces not used by persons frequently or during extended periods.

*Kitchen.* A kitchen is a space of not less than fifty (50) square feet, which contains a sink with counter working space, adequate space for installing cooking and refrigeration equipment and for the storage of cooking utensils.

*Multiple family dwelling.* A building or portion thereof designed or altered for occupancy by three (3) or more families living independently of each other.

*Occupant.* Any person (including owner or operator) living and sleeping in a dwelling unit or having actual possession of said dwelling or rooming unit.

*Owner.* Any person who, alone, jointly, or severally with others shall be in actual possession of, or have charge, care or control of, any dwelling or dwelling unit within the city as owner, employee or agent of the owner, or as trustee or guardian of the estate or person of the title holder, and such person shall be bound to comply with the provisions of this article to the same extent as the owner.

*Operator.* Operator shall mean any person who has charge, care or control of a building, or part thereof, in which dwelling units or rooming units are let.

*Person.* The word "person" shall include a corporation, firm, partnership, association, organization and any other group acting as a unit as well as individuals. It shall also include an executor, administrator, trustee, receiver or other representative appointed according to law. Whenever the word "person" is used

in any section of this article prescribing a penalty or fine, as to partnerships or association, the word shall include partners or members thereof, and as to corporations, shall include the officer, agents or members thereof who are responsible for any violation of such section.

*Plumbing.* All of the following facilities and equipment: Gas pipes, gasburning equipment, water pipes, steam pipes, garbage disposal units, waste pipes, toilets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar fixtures, together with all connections to water, sewer or gas lines.

*Provided.* Any material furnished, supplied, paid for or under the control of the owner.

*Public hall.* A hall, corridor or passageway for egress from a dwelling not within the exclusive control of one (1) family.

*Rooming unit.* Shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

*Repair.* To restore to a sound and acceptable state of operation, serviceability or appearance. Repairs shall be expected to last approximately as long as would the replacement by new items.

*Replace.* To remove an existing item or portion of a system and to construct or install a new item of similar or improved quality as the existing item when new. Replacement will ordinarily take place when the item is incapable of repair.

*Rubbish.* The word rubbish means nonputrescible solid wastes (excluding ashes), consisting of both combustible and noncombustible wastes, such as paper, cardboard, tin cans, yard clippings, wood, glass, bedding, crockery and similar material.

*Structure.* Anything constructed or erected which requires location on the ground or is attached to something having location on the ground, including a fence or free standing wall. A sign, billboard or other advertising medium, detached or projecting, shall be construed to be a structure.

*Substandard.* All buildings used for purposes of human habitation which do not conform to the minimum standards established by this article and by any other ordinances.

*Supplied.* Paid for, furnished, or provided by or under the control of, the owner or operator.

*Temporary housing.* Any tent, trailer, or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure, or to any utilities system on the same premises for more than thirty (30) consecutive days.

*Yard.* An open space at grade on the same lot as a building or structure located between the main building and the adjoining lot line, and/or street line. The measurement of a yard shall be the minimum horizontal distance between the lot line and the building or structure.

(b) Whenever the words "dwelling," "dwelling unit," "rooming house," "rooming unit," "premises," are used in this article, they shall be construed as though they were followed by the words "or any part thereof."

(Ord. No. 216, § 1-1, 10-2-79; Ord. No. 648, § 1, 12-15-98; Ord. No. 742, § 1, 2-19-02; Ord. No. 890, § 1, 8-15-06; Ord. No. 942, § 2, 7-15-08)

Sec. 6-77. - Purposes.

The general purpose of this article is to protect the public health, safety, comfort and the general welfare of the people of the city. These general objectives include, among others, the following specific purposes:

- (1) To protect the character and stability of residential areas within the city.
- (2) To provide minimum standards necessary to the health and safety of occupants of buildings.
- (3) To provide facilities for light and ventilation, necessary to health and safety.
- (4) To prevent additions or alterations to existing dwellings that would be injurious to the life, health, safety or general welfare of the occupants of such dwellings or neighboring properties.
- (5) To prevent the overcrowding of dwellings by providing minimum space standards per occupant of each dwelling unit.
- (6) To provide minimum standards for the maintenance of existing residential buildings, and to thus prohibit the spread of slums and blight.
- (7) To thus preserve the taxable value of land and buildings throughout the city.

(Ord. No. 216, § 1-2, 10-2-79)

Sec. 6-78. - Compliance.

Every building or its premises used in whole or part as a home or residence or as an accessory structure thereof, of a single family or person and every building used in whole or in part as a home or residence of two (2) or more persons or families, living in separate apartments, shall conform to the requirements of this article, irrespective of the class to which such building may otherwise belong.

(Ord. No. 216, § 1-3, 10-2-79)

Sec. 6-79. - Interpretation.

This article establishes the minimum standards for dwelling units and accessory buildings, and does not replace or modify standards otherwise established for the construction, replacement or repair of buildings except such as are in conflict with the provisions of this article. Any inconsistency or conflict between the provisions of this article and any other ordinance shall not repeal such provision or ordinance, but the provisions of this article shall be cumulative thereto.

(Ord. No. 216, § 1-4, 10-2-79)

Sec. 6-80. - Basement rooms.

It shall be unlawful for any person to use or permit any room in any basement to be used to satisfy the habitable room requirements of section 6-83 of this Code, unless such basement meets all the applicable requirements of this article, particularly with regard to ceiling height, window areas, and toilet facilities, and meets the following additional requirements:

- (1) The required minimum window area is entirely above ground level.
- (2) The floors and walls shall be constructed in a manner to prevent the entry of moisture and insulated so as to prevent the condensation of moisture within the room.

Sec. 6-81. - Minimum standards for dwelling and family units generally.

It shall be unlawful for any person to occupy as owner-occupant or to let or hold out to another for occupancy any dwelling unit for the purposes of living therein which is not safe, clean, and fit for human occupancy, and which does not comply with the particular requirements of the following paragraphs:

- (1) The foundations, exterior walls and exterior roof shall be substantially watertight and protected against rodents and shall be kept in sound condition and repair. The foundation elements shall adequately support the building at all points. Every exterior wall shall be free of holes, breaks, loose or rotting board or timbers, and any other condition which might admit rain or dampness to the interior portions of the walls or to the exterior spaces of the dwelling. The roof shall be tight and have no defects which admit rain, and roof drainage shall be adequate to prevent rain water from causing dampness in the walls. All cornices, rustications, quoins, moldings, belt course, lintels, still, oriel windows, pediments and similar projections shall be kept in good repair and free from defects which make them hazardous and dangerous.
- (2) Every floor, interior wall, and ceiling shall be adequately protected against the passage and harborage of vermin and rodents, and shall be kept in sound condition and good repair. Every floor shall be free of holes and cracks. Every floor shall be free of loose, warped, protruding or rotting floor boards. Every interior wall and ceiling shall be free of holes and shall be maintained in a tight and weatherproof condition.
- (3) Every window, exterior door, and basement hatchway shall be substantially tight, and shall be kept in sound condition and repair. Every window shall be fully supplied with window panes which are without cracks or holes. Every window sash shall be in good condition and fit within its frame. Every window, other than a fixed window, shall be capable of being opened and shall be held in position by window hardware. Every exterior door, door hinge, and door latch shall be in good condition.

Every exterior door, when closed, shall fit reasonably well within its frame. Every window, door and frame shall be constructed and maintained in such relation to the adjacent wall construction as completely to exclude rain and substantially to exclude wind from entering the dwelling. Every basement hatchway shall be so constructed and maintained as to prevent the entrance of rodents, rain and surface drainage water into the building.

- (4) Every door, window or opening leading directly from any family unit to the outdoors, when used for air ventilation purposes, shall be supplied with a screen of not less than sixteen (16) mesh per inch, and every screen, door, window or opening shall be in good working order, capable of being opened.
- (5) Every stairway, inside or outside of the dwelling, and every porch, shall be kept in safe condition and sound repair. Every flight of stairs and every porch floor shall be free of deterioration. Every stairwell and every flight of stairs which is more than four (4) risers high, shall have rails not less than two and one-half (2½) feet high, measured vertically from the nose of the tread to the top of the rail; and every porch which is more than four (4) risers high shall have rails not less than two and one-half (2½) feet above the floor of the porch. No flight of stairs shall have pulled away from supporting or adjacent structures. No flight of stairs shall have rotting, loose or deteriorating supports. The treads and risers of every flight of stairs shall be uniform in width and height. Every

stair tread shall be strong enough to bear a concentrated load of at least four hundred (400) pounds without danger of breaking. Every porch shall have a sound floor. No porch shall have rotting, loose, or deteriorating supports.

- (6) Every basement and every cellar shall be maintained in a safe and sanitary condition. Water shall not be permitted to accumulate or stand on the floor. All sewer connections shall be properly trapped. All cellar and slab drains shall be covered with grating or removable cover.
- (7) Every supplied facility, fixture, system, piece of equipment or utility, and every chimney and chimney flue shall be installed and maintained in a safe, sound and sanitary working condition, consistent with the requirements of this article.
- (8) All trees, bushes or vegetation which overhang a public entrance shall be properly trimmed to avoid obstruction of the view and movements of vehicles and pedestrians.
- (9) Each dwelling and all exterior appurtenances on the premises shall be adequately protected against rats, mice, termites, and other vermin infestation. Building defects which permit the entrance of rats, mice, termites and other vermin shall be corrected immediately by the owner. Tenants shall be responsible for the elimination of rodents and vermin from that part of the premises under their exclusive control, except when more than one (1) unit is infested at the same time and in this instance the owner shall be responsible for elimination of the infestation.

(Ord. No. 216, § 1-6, 10-2-79; Ord. No. 242, § 2, 9-16-80)

Sec. 6-82. - Space requirements generally; ceiling heights; sleeping rooms.

No person shall occupy or let to another for occupancy any dwelling unit for the purpose of living therein which does not comply with the following requirements. Each dwelling unit shall contain the habitable rooms and closets, with the minimum floor areas and least dimensions as scheduled below:

Minimum Area in Square Feet

Name of Space	1 to 2 Occupants	3 to 5 Occupants	6 or More Occupants	Least Dimension (applicable to 90% of required floor area)	
Living Room	N.R.	120	<u>150</u>	10'0"	
Dining Room	N.R.	80	100	7'0"	
Kitchen	50	50	60	3'0" clear passage	
Bedrooms (see paragraph (1) below for requirements)				7'0"	
Closets (total)	10*	<u>20</u> *	30*		

\*Each bedroom must have six (6) square feet of closet space opening into the bedroom.

- (1) Every room occupied for sleeping purposes by one (1) occupant shall have a minimum floor area of seventy (70) square feet; and every room occupied for sleeping purposes by more than one (1) occupant shall have a minimum floor area of fifty (50) square feet for each occupant thereof.
- (2) Every room used as a bedroom shall have access to at least one (1) water closet without passing through another room used as a bedroom.
- (3) Every room used as a bedroom shall have access to at least one (1) water closet located on the same floor as the bedroom, except that this requirement shall not apply to the only bedroom on a floor.
- (4) Habitable rooms shall have a clear ceiling height of not less than seven (7) feet, four (4) inches except that in attics or top/half stories the ceiling height shall be not less than seven (7) feet over at least one-third of the area when used for sleeping, study or similar activity. In calculating the floor area of such rooms only those portions of the floor area of the room having a clear ceiling height of five (5) feet or more may be included.
- (5) Dining room spaces will be construed as meeting the requirements of this section if the total area is equal to two-thirds of the total space required for separate rooms and if the space is so located that it may function as a combination living room-dining room.
- (6) No sleeping room may be used by two (2) children of opposite sex beyond the age of five (5) years nor may a minor child sleep in the same room as his parents on a permanent basis over five (5) years of age.
- (7) No room may be classed as a bedroom or sleeping room on a permanent basis by use of a cot, rollaway bed, sofa bed or any in-the-wall closet bed.

(Ord. No. 216, § 1-7, 10-2-79; Ord. No. 634, § 29, 6-16-98)

Sec. 6-83. - Reserved.

**Editor's note—** Section 30 of Ord. No. 634, adopted June 16, 1998, deleted § 6-83 which pertained to electrical service and derived from Ord. No. 216, § 1-8, adopted Oct. 2, 1979.

Sec. 6-84. - Natural lighting generally.

All habitable, rooms, except as otherwise provided in this article, shall be provided with a means of transmitting natural light from outside, complying with the following requirements:

- (1) The required clear glass area shall not be less than one-tenth of the floor area of such room and not less than ten (10) square feet. The effective area shall be computed at not more than eighty (80) percent of the actual area when a required natural light area:
  - a. Faces a wall or other obstruction at a distance of less than ten (10) feet; or
  - b. Is located below a roof or other obstruction projecting more than four (4) feet from the face of the window or other natural light area from the plane from the head to the outside of such projection forms an angle with the horizontal of less than forty-five (45) degrees.
- (2) Whenever a habitable room has natural light area opening from the room to an enclosed porch, such area shall not be counted as a required light area unless the enclosed porch has a natural light area of not less than three (3) times the required light area opening from the room to the porch.

(Ord. No. 216, § 1-9, 10-2-79)

Sec. 6-85. - Ventilation requirements generally.

- (a) Every habitable room shall have a ventilation system adequate for the purpose for which the room is used. Natural ventilation shall be deemed to be adequate for habitation when the total area openable to the outside air (by means of windows, louvers, monitors or other direct openings excluding doors) is five (5) percent of the floor area of the habitable room.
- (b) A kitchen with a floor area of less than seventy (70) square feet may be without either mechanical or natural ventilation if there is an opening of not less than thirty-two (32) square feet between the kitchen and another room in the same family unit and if the room into which the kitchen opens has the ventilation requirements of subsection (a).
- (c) Every toilet room and bathroom shall have adequate ventilation which may either be an openable window with an openable area of five (5) percent of the floor area, mechanical ventilation in compliance with the foregoing requirements of this section, or a gravity vent flue constructed with incombustible material leading to the roof of the building or a combination of any of these. The gravity vent shall be computed at an aggregate clear area of not less than five (5) percent of the floor area of the room with a minimum of at least one hundred twenty (120) square inches. Gravity vents shall be provided with a weather cap, directional vane or rotary type ventilation on the roof.

(Ord. No. 216, § 1-10, 10-2-79)

Sec. 6-86. - Windows; condition; broken glass, etc.

- (a) Every window, glazed exterior door, exterior transom, or exterior sidelight shall be provided with properly installed glass or other approved glazing material. In the event of breakage, the owner shall cause the immediate removal of broken glass from the premises and shall temporarily board up the affected openings with suitable material to provide protection from the elements and to prevent entry of insects, birds or animals and to provide security to occupants or contents of the building.
- (b) Adequate ventilation and natural lighting shall be provided for all occupied dwelling units. Whenever any exterior openings are found boarded up, it shall be the duty of the director of public works, or his deputy, to notify the owner or agent of this requirement giving him a period of not more than ten (10) working days in which to properly replace the broken glass or cause the dwelling unit to be vacated. This notice shall be given in the manner required by Section 6-103 of this Code and it shall be unlawful for an owner, or agent to fail to comply with the order of the director of public works, or his deputy, contained in such notice.
- (c) As the presence of boarded-up buildings, particularly those where the boarding is unpainted or applied in any insecure, careless, or unpresentable fashion invites vandalism and creates a blighting influence which adversely affects the general welfare of the people of this city, all boarding-up of exterior openings shall be accomplished in a neat, workmanlike manner, with not less than one-half-inch thick weather resistant plywood cut to fit within openings, fastened in place as securely as possible, and suitably coated with an appropriate neutral color, blending with or harmonizing with, the exterior colors of the building as inconspicuously as possible. It shall be the duty of the director of public works, or his deputy, to notify the owner or agent of any boarded-up dwelling unit not complying with the above requirements, of the necessity of compliance, giving him a period of not more than ten (10) working days in which to replace the broken glass, or repair, replace or paint the boarding. This notice shall be given in the manner required by Section 6-103 of this Code and it shall be unlawful for any owner or agent to fail to comply with the order of the director of public works, or his deputy, contained in such notice.

(Ord. No. 216, § 1-21, 10-2-79; Ord. No. 242, § 1, 9-16-80)

Sec. 6-87. - Dual egress for dwelling units occupying third or higher story.

All habitable structures of three (3) or more stories with dwelling units occupying the third or higher story shall be provided with two (2) separate usable unobstructed means of egress for each dwelling unit located above the second story. The exit facilities from such dwelling units shall lead to a public thoroughfare, either directly or through a court or yard, and passage to such exits shall not lead through any other dwelling unit or through a space that might reasonably be locked by anyone who is not a member of the household. Dual egress will not be required of structures that are of full fireproof construction as defined in the city's building code.

(Ord. No. 216, § 1-11, 10-2-79)

Sec. 6-88. - Sinks.

- (a) Every dwelling unit shall contain a kitchen sink in good repair. Such sink shall be in working condition, properly connected to a water and sewer system approved by the director of public works or his deputy.
- (b) Every kitchen sink, lavatory basin, and bathtub or shower required under the provisions of this article, shall be properly connected with both hot and cold water lines.

(Ord. No. 216, § 1-12, 10-2-79)

Sec. 6-89. - Bathrooms required.

- (a) Every dwelling unit shall contain a bathroom which affords privacy to a person within said room and which is equipped with a flush water closet, a tub or shower, and a lavatory basin. Every dwelling unit with more than seven (7) occupants shall contain additional sanitary facilities at the rate of one (1) water closet and one (1) lavatory for each additional four (4) occupants or fraction thereof.
- (b) All fixtures shall be in good repair and in working condition, properly connected to the public water system and to a public or private sewer system; provided, however, that until such sewer connections are available, septic tanks constructed according to the standards required by the health department, and properly functioning, shall not be construed as in violation of this section.

(Ord. No. 216, § 1-13, 10-2-79)

Sec. 6-90. - Accessory structures.

- (a) Accessory structures shall not obstruct light and air of doors and windows of any dwelling unit, or obstruct a safe means of access to any dwelling unit or create fire and safety hazards or provide rat or vermin harborage. Accessory structures shall be functional and shall be maintained in a state of good repair and alignment.
- (b) All exterior appurtenances or accessory structures which serve no useful purpose and are in a deteriorated condition which are not economically repairable, shall be removed. Such structures include porches, terraces, entrance platforms, garages, driveways, carports, walls, fences, miscellaneous sheds.

(Ord. No. 216, § 1-14, 10-2-79)

Sec. 6-91. - Exterior post lamps and mailboxes; condition of.

- (a) Every lamp and/or light external to a structure, whether powered by natural gas, other combustible gas, electricity (utility service provided or battery), solar energy, or any other source of power shall be maintained at all times in a sound, safe, and acceptable state of serviceability or appearance,

including without limitation the firm foundation or anchoring of posts or poles and lamp units, without missing or broken panes of glass, doors, hinges, caps, or other parts designed for the safe and attractive operation of the assembled lamp unit.

- (b) Residential mailboxes or other mail receptacles external to a structure, whether affixed to a post, a pole, or otherwise freestanding shall be maintained in a sound, safe, and acceptable state of operation, serviceability, or appearance, including without limitation the firm foundation or anchoring of posts, or poles, and the maintenance of doors, glass, hinges, and other parts, and in all ways in compliance with currently effective United States Postal Service regulations applicable to the construction, maintenance, and operation of residential mail receptacles, and as these regulations may be subsequently amended.

(Ord. No. 401, § 1, 6-7-88; Ord. No. 832, § 1, 9-7-04)

Sec. 6-92. - Housing code adopted.

A certain document, copies of which were placed on file in the office of the city clerk, said copies being marked and designated as the BOCA National Property Maintenance Code/1996, Fifth Edition, as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the housing code of the City of Black Jack, for the control of building and structures as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the BOCA National Property Maintenance Code/1996, Fifth Edition, are hereby referred to, adopted and made a part hereof as if fully set out in this article; provided that should any conflict of interpretations or requirements occur between the provisions of said code and this article, then this article shall apply and prevail.

(Ord. No. 634, § 31, 6-16-98; Ord. No. 968, § 1, 3-17-09; Ord. No. 1005, § 1, 9-7-10)

Sec. 6-93. - Jurisdictional titles.

Throughout the BOCA National Property Maintenance Code/1996, Fifth Edition, whenever the term "name of jurisdiction" or "local jurisdiction" appears it shall be deemed to mean "City of Black Jack, Missouri." Likewise, whenever the term "department of building inspection" appears it shall be deemed to mean "department of public works."

(Ord. No. 634, § 31, 6-16-98)

Sec. 6-94. - Amendments.

The BOCA National Property Maintenance Code/1996, Fifth Edition, is hereby amended by additions, deletions, and changes including the changing of articles, sections, subsection titles and the addition of new sections and subsections so that such amended and added articles, sections and subsections read as follows:

*PM-106.2 Penalty:* Any person who shall violate a provision of this code shall, upon conviction thereof, be subject to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) or imprisonment for a term not to exceed ninety (90) days, or both, at the discretion of the court. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*PM-111.0 Means of Appeal:* Deleted.

*PM-303.4 Weeds:* Deleted.

*PM-303.8 Motor Vehicles:* Deleted.

*PM-304.15 Insect screens:* Window and other outside openings utilized or required for ventilation purposes serving any structure containing habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch and every swinging door shall have a self-closing device in good working condition.

*PM-306.0 Rubbish and Garbage:* Deleted.

*PM-508.1 General:* Drainage of roofs and paved areas, yards and courts, and open areas on the premises shall not be discharged in such a manner that encroaches on adjoining properties or creates a public nuisance.

*PM-602.2.1 Heat supply:* Every owner and operator of any building who rents, leases or lets one (1) or more dwelling unit, rooming unit, dormitory or guestroom on terms, either express or implied, to furnish heat to the occupants thereof shall supply sufficient heat during the period from October 1 to April 15 to maintain the room temperatures specified in Section PM-602.2 during the hours between 6:30 a.m. and 10:30 p.m. of each day and not less than 60 degrees F. (16 degrees C.) during other hours.

*PM-602.3 Nonresidential structures:* Every enclosed occupied work space shall be supplied with sufficient heat during the period from October 1 to April 15 to maintain a temperature of not less than 65 degrees F. (18 degrees C.) during all working hours.

*Exceptions:*

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

(Ord. No. 634, § 31, 6-16-98; Ord. No. 896, § 1, 12-5-06)

Sec. 6-95. - Drainage pipes.

Surface water, water discharged from floor base drains, foundation perimeter drains and sump pumps, and water discharged from roof gutter and downspout systems, which are concentrated into an enclosed pipe system shall not be discharged from the pipe system within a public right of way or within ten (10) feet of such property owner's property line(s) abutting a public right-of-way. Floor base and foundation perimeter drains shall be discharged by gravity to the exterior of the dwelling unit or be connected to a basement floor sump with a sump pump. The sump pump drain shall be piped to an approved watercourse or drainage system in a manner approved by the director of public works or his or her designee.

(Ord. No. 845, § 2, 12-21-04)

Secs. 6-96—6-100. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Part A. - General Provisions

Sec. 6-101. - Inspections.

- (a) The director of public works, or his deputy, is authorized and directed to make inspections to determine whether dwellings, dwelling units, rooming units, accessory structures and premises located within this city conform to the requirements of this article. For the purpose of making such inspections, the director of public works, or his deputy, is authorized to enter, examine, or survey at all reasonable times all dwellings, dwelling units, rooming units, accessory structures, and premises. The owner or occupant of every dwelling, dwelling unit, rooming unit, accessory structure, and its premises, shall give the director of public works, or his deputy, free access thereto at all reasonable times for the purpose of such inspection, examination, and survey. All inspections shall be valid for one hundred eighty (180) days only from the date of inspection.
- (b) If any owner, occupant, or other person in charge of a structure subject to the requirements of this article refuses, impedes, inhibits, interferes with, restricts, or obstructs entry and free access to any part of the structure or premises when inspection authorized by this article is sought, the director of public works, or his deputy, may seek, in a court of competent jurisdiction, an order that such owner, occupant, or other person in charge cease and desist with such interference.
- (c) Inspection shall be initiated by the seller, and/or his agent, or the prospective owner or lessee, or by the director of public works, or his deputy, under the following circumstances:
  - (1) Upon application for any occupancy permit for the dwelling unit or any other notification that there will be a change of occupancy of said dwelling unit.
  - (2) When, on the basis of a complaint or his personal observation, the director of public works, or his deputy, reasonably suspects that a dwelling unit does not comply with one (1) or more of the provisions of this article, and as such, constitutes a health and/or safety hazard.
  - (3) Whenever the director of public works, or his deputy, shall receive notice, by any means, of an impending foreclosure sale of any dwelling unit. The source of notices shall include, but not be limited to advertisements in newspapers, and the public information releases mailed or published by the U.S. Department of Housing and Urban Development.
- (d) Every occupant of a structure or premises shall give the owner or operator thereof, or his agent or employee, access to any part of such structure or its premises at all reasonable times for the purpose of making such inspection, maintenance, repairs or alterations as are necessary to comply with the provisions of this article.
- (e) Fees for inspections and re-inspections shall be determined by the city council by resolution. All fees will be remitted by the seller and/or his agents directly to the city. Fees for inspections of rental property, apartments, or rooms, shall be paid to the city by the lessor.

(Ord. No. 216, §§ 1-15, 1-15.1, 10-2-79; Ord. No. 242, § 1, 9-16-80; Ord. No. 247, § 1, 2-3-81; Ord. No. 659, §§ 4, 5, 8-3-99)

Sec. 6-101.1 - Missed appointment fee; housing inspections.

- (a) There shall be a fee paid for a missed scheduled inspection when the owner or his/her authorized agent fails to be present for any scheduled appointment for an inspection or re-inspection of a property. A missed appointment shall be defined as arriving more than ten (10) minutes after a scheduled appointment time. No fee shall be imposed if for any reason the building official or inspector must cancel or be late. All missed appointment fees shall be paid in the office of the city clerk.
- (b) The missed appointment fee shall be twenty-five dollars (\$25.00) per occurrence, and the missed appointment fee must be paid prior to scheduling a new inspection.

(Ord. No. 1012, §§ 1, 2, 11-12-10; Ord. No. 1019, § 1, 8-2-11)

Sec. 6-102. - Reserved.

**Editor's note—** Section 1 of Ord. No. 659, adopted Aug. 3, 1999, deleted § 6-102 which pertained to occupancy permit and derived from Ord. No. 216, adopted Oct. 2, 1979; Ord. No. 242, adopted Sept. 16, 1980; and Ord. Nos. 643 and 644, adopted Nov. 17, 1998.

Sec. 6-103. - Notice of violations.

Whenever the director of public works, or his deputy, determines that there are reasonable grounds to believe that there has been a violation of any provision of this article, he will give notice of such alleged violation to the person responsible therefor, which shall:

- (1) Be in writing;
- (2) Contain a statement of the reason why it is being issued;
- (3) Allow a reasonable time for the performance of any act it requires;
- (4) Be served upon the owner or his agent, or the occupant, as the case may require. Such notice shall be deemed to be properly served upon such owner or agent, or on any such occupant, if a copy thereof is:
  - a. Served upon him personally; or
  - b. Sent by certified mail to his last known address; or
  - c. Posted in a conspicuous place in or about the dwelling unit affected by notice;
- (5) Contain an outline of remedial action which, if taken, will effect compliance with the provisions of this article.

(Ord. No. 216, § 1-17, 10-2-79; Ord. No. 242, § 1, 9-16-80)

Sec. 6-104. - Unfit dwelling units.

- (a) The designation of dwellings or dwelling units as unfit for human habitation and the procedure for such declaration and placarding of such unfit dwellings or dwelling units shall be carried out in compliance with the following requirements:
  - (1) Any dwelling or dwelling units which shall be found to have any of the following defects shall be declared unfit for human habitation and shall be so designated and placarded by the director of public works, or his deputy, when the person responsible has failed to correct the condition set forth in a notice issued in accordance with section 6-103 of this Code.
  - (2) One which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin-infested that it creates a serious hazard to the health and safety of the occupants or the public, or
  - (3) One which lacks illumination, ventilation, or sanitation facilities adequate to protect the safety of the occupants or the public, or
  - (4) One which, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or the public.
- (b) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the director of public works, or his deputy, shall be vacated within a reasonable time as ordered by the director of public works or his deputy. No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until a written approval is secured from and such placard is removed by, the director of public works,

or his deputy. The director of public works, or his deputy, shall remove such placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

- (c) No person shall deface or remove the placard from any dwelling or dwelling unit which has been condemned as unfit for human habitation and placarded as such except as provided in subsection (b).
- (d) Any person affected by any notice or order relating to the condemning and placarding of a dwelling or dwelling unit as unfit for human habitation may request and shall be granted a hearing on the matter before the board of appeals under the procedure set forth in Part B of this division.

(Ord. No. 216, § 1-18, 10-2-79; Ord. No. 242, § 1, 9-16-80)

Sec. 6-105. - Remedy of defects by owner.

- (a) The owner of any building shall have thirty (30) days from the issuance of the notice provided for in Section 6-103 of this Code in which to remedy the condition therein specified, except when emergency conditions shall require immediate action as provided in Section 6-108 of this Code; provided, however, that the director of public works, or his deputy, may at his discretion extend the time for compliance with any such notice.
- (b) It shall be unlawful for any person to fail to comply with any order of the director of public works, or his deputy, contained in the notice described in Section 6-103 of this Code.

(Ord. No. 216, § 1-19, 10-2-79; Ord. No. 242, § 1, 9-16-80)

Sec. 6-106. - Vacated dwellings to be made secure.

The owner of every building or dwelling unit or rooming unit which is declared "unfit for human habitation" for continued occupancy shall make the dwelling, building or rooming unit safe and secure under the terms so that it shall not be dangerous to human life and shall not constitute a fire hazard or public nuisance. Any such vacant dwelling open at doors or windows, if unguarded, shall be deemed to be dangerous to human life as a fire hazard and a public nuisance within the meaning of this provision. Failure to comply with the requirements of this section shall constitute a violation under this article.

(Ord. No. 216, § 1-20, 10-2-79; Ord. No. 242, § 1, 9-16-80; Ord. No. 247, § 3, 2-3-81)

Sec. 6-107. - Right of city to correct violations at expense of owner.

If the owner fails to comply with the notice issued by the director of public works, or his deputy, under this article, then the director of public works, or his deputy, shall certify such failure to the board of appeals. Said board is authorized and may direct the director of public works, or his deputy, to take such action as may be necessary to repair, replace, rebuild, or otherwise remedy the conditions specified in the notice. If the board of appeals proceeds to order the condition remedied, then the cost thereof shall be at the expense of the owner. The costs shall be submitted to the owner or owners of the property; if the costs are not paid within sixty (60) days after rendered, then the board of appeals shall certify the amount due to the collector of the city, who shall issue special tax bills therein. Said tax bills shall be collected as other taxes on real estate.

(Ord. No. 216, § 2(2-1), 10-2-79)

Sec. 6-108. - Emergency measures.

When any dwelling unit has become so damaged by fire, wind or other causes, or has become so unsafe, unhealthful or unsanitary, that in the opinion of the director of public works, or his deputy, life or health is immediately endangered by the occupation of the dwelling unit, the director of public works, or his deputy, is hereby authorized and empowered to revoke without notice any occupancy permits for such dwelling units and to order and require the occupants to vacate the same forthwith and to order the owner or agent to proceed immediately with the corrective work and repairs required to make the dwelling unit temporarily safe and fit for human habitation, whether or not a notice of violation has been given as described in this ordinance, and whether or not other legal procedures described by city ordinances have been instituted. It shall be unlawful for any person to fail to comply with any emergency order of the director of public works or his deputy.

(Ord. No. 216, § 1-22, 10-2-79; Ord. No. 242, § 1, 9-16-80)

Sec. 6-109. - Protocols for the abatement of contamination due to the production of methamphetamine.

(a) *Purpose.* The purpose of this section is to adopt standards for identifying dangerous levels of toxic chemicals and residue associated with the production of methamphetamine and to establish protocols whereby the director of public works, or his deputy, may cooperate with and rely on the St. Louis County Police Department when applying the Housing Code of the City of Black Jack to order or cause the abatement of contamination in structures due to the production of methamphetamine.

(b) *Definitions.*

*Methamphetamine* means Dextro methamphetamine, levo methamphetamine, and unidentified isomers of the same, any racemic mixture of dextro/levo methamphetamine, or any mixture of unidentified isomers of methamphetamine. The term includes derivatives, conjugates, oxides and reduced forms of the basic structure associated with the formation of methamphetamine. For the purposes of this protocol, this term includes methamphetamine, ephedrine and pseudoephedrine.

*Qualified company or qualified contractor* means a company or contractor that tests structures for the presence of unsafe contamination and/or abates such unsafe contamination and that:

- (1) Complies with the guidelines of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009);
- (2) Complies with the regulations of the Occupational Safety and Health Administration of the United States Department of Labor relating to hazardous waste operations and emergency response, including 29 Code of Federal Regulations Section 1910.120;
- (3) Requires that at least one (1) employee or supervisor assigned to and on duty at any work site shall have completed the forty (40) hour hazardous waste operations and emergency response (HAWOPER) training (Occupational Safety and Health Administration (OSHA) 29 CFR 1910); and
- (4) Requires its personnel to complete a clandestine drug lab assessment and decontamination course offered by a sponsor acceptable to the City of Black Jack.

*Unsafe contamination* means the presence of chemicals in a structure at levels exceeding the levels for such chemicals as provided below.

(c) *Unsafe contamination.* A structure shall be considered unfit for human habitation for purposes of the Housing Code of the City of Black Jack if it is found to contain any of the chemicals listed below at exposure limits above the levels listed below established by the National Institute for Occupational Safety and Health (NIOSH):

- (1) Red phosphorus: Any amount.
- (2) Iodine crystals: C 0.1 ppm (1 mg/m<sup>3</sup>).
- (3) Sulfuric acid: TWA 1 mg/m<sup>3</sup>.
- (4) Hydrochloric acid (HCl gas): C 5 ppm (7 mg/m<sup>3</sup>).
- (5) Hydrogen chloride: C 5 ppm (7 mg/m<sup>3</sup>).
- (6) Methamphetamine: In a concentration equal to or greater than 1.5 µgram/100 cm<sup>2</sup>.
- (7) Lead and mercury: If it is determined that the phenyl-2-propanone (P2P) method of methamphetamine manufacturing was used, surface levels for lead in excess of twenty (20) µg/ft<sup>2</sup> and vapor samples for mercury in excess of fifty (50) ng/m<sup>3</sup>.

(d) *Closure and abatement orders.*

- (1) Whenever the director of public works, or his deputy, determines that there are reasonable grounds to believe, or when the St. Louis County Police Department reports to the city, that a structure or one (1) or more units in a multi-unit structure in the city (i) has been used for the production of methamphetamine, (ii) has been used as a storage facility for chemicals used in the manufacturing of methamphetamine as identified in the preceding subsection, or (iii) contains unsafe contamination due to chemicals used in the manufacturing of methamphetamine as identified in the preceding subsection, the director of public works or his deputy may order that structure or unit closed to occupancy pursuant to Section 6-104.
- (2) The director of public works or his deputy shall rescind such an order if (i) the St. Louis County Police Department later reports that after investigation it has determined that the structure or unit in question has not been used for the production of methamphetamine or as a storage facility for chemicals used in the manufacturing of methamphetamine, or (ii) testing conducted in accordance with Section 6-109(e)(3) reveals that decontamination is not necessary.

(e) *Supplementary notice and instructions.*

- (1) While closure and abatement orders may be posted, the director of public works or his deputy shall attempt to contact the owner of record of the affected property, or the owner's agent, as provided in Section 6-103 and provide the owner or the owner's agent with notice that the structure has been closed to occupancy.
- (2) Such notice shall direct the owner to contact a qualified company or qualified contractor, as described above, within twenty (20) calendar days to establish a schedule for decontaminating the structure.
- (3) Such notice shall also inform the owner that if the owner contacts the director of public works within the time specified in the notice, the owner may request to have the structure tested to establish that decontamination is not necessary. Such testing must be performed as follows:
  - a. The owner must employ the service of a qualified company or qualified contractor to perform sampling and to analyze the samples.
  - b. Sampling and testing shall be performed in accordance with the appropriate sections of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009).
  - c. The qualified company or qualified contractor engaged by the owner must report the results of its analysis of the samples taken to the director of public works.

(f) *Decontamination.*

- (1)

The owner shall employ the services of a qualified company or qualified contractor to decontaminate the structure and will advise the director of public works of the schedule for decontamination.

- (2) The schedule for decontamination and evidence that the contractor or company meets the requirements of this section must be submitted for approval to the director of public works within twenty (20) calendar days of the receipt of notice. Approval will be based solely on the timeliness of the schedule and the qualifications of the company or contractor. Approval or rejection of the schedule will be provided within a reasonable time of submission. If rejected the owner will be informed, in writing, of specific reasons for the rejection and will be required to amend the schedule or the proposed qualified company or qualified contractor. Decontamination shall be performed in accordance with the appropriate sections of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009).
- (3) If the owner of the property determined to have unsafe contamination fails to voluntarily abate that contamination in conformity with the approved schedule, the director of public works may serve a notice of violation. If the owner of the property is unwilling or unable to voluntarily abate the contamination, within forty-five (45) days of such notice of violation, the city, in the interest of public safety, may abate the property pursuant to Section 6-107 and utilizing the above noted guidelines. The director of public works or his deputy may also request to disconnect utilities to the structure until the decontamination is complete.
- (4) Following the completion of the decontamination carried out or caused to be carried out by the owner, the owner shall notify the director of public works that the work is complete and the owner must provide written test results as evidence that the property is compliant with this section. Sampling and testing must be performed in accordance with the appropriate sections of the U.S. Environmental Protection Agency Voluntary Guidelines for Methamphetamine Laboratory Cleanup (August 2009).
- (g) *Final action; inspection fee; owner to reconnect utilities.* After the property has been decontaminated and the director of public works is in possession of evidence that the pertinent chemical levels are below the levels established for unsafe contamination by this section, the structure will be considered safe and suitable for performance of a full inspection for an occupancy permit. The fee for a post-decontamination inspection shall be the current administrative fee plus the costs of any third-party retained by the City to conduct such inspection. If the utilities have been disconnected, the director of public works or his deputy will notify the utility companies that the unsafe conditions have been mitigated and service can be restored. The property owner shall be responsible for any re-connection fees.

(Ord. No. 1052, § 1, 7-16-13)

Secs. 6-110—6-115. - Reserved.

#### *Part B. Appeals*

Sec. 6-116. - Jurisdiction of board of appeals.

The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by any aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his deputy or any other person charged with the enforcement of this article.

(Ord. No. 216, § 2, 10-2-79)

Sec. 6-117. - Filing procedure; cost of appeal.

- (a) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works, or his or her deputy, the sum of one hundred ten dollars (\$110.00).
- (b) The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.

(Ord. No. 216, § 2-2, 10-2-79; Ord. No. 325, § 1, 1-15-85; Ord. No. 825, § 1, 7-20-04)

Sec. 6-118. - Stays of proceedings.

An appeal pursuant to Section 6-117 of this Code shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.

(Ord. No. 216, § 2-3, 10-2-79)

Sec. 6-119. - Information to be furnished to board of adjustment.

It shall be the duty of the director of public works, or his deputy, and the health commissioner to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and request by the board.

(Ord. No. 216, § 2-4, 10-2-79)

Sec. 6-120. - Notice and hearing.

The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.

(Ord. No. 216, § 2-5, 10-2-79)

Sec. 6-121. - Action and decision of board.

- (a) In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.
- (b) The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.

(Ord. No. 216, § 2-6, 10-2-79)

Sec. 6-122. - Review of decisions of board.

- (a) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
- (b) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
- (c) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 216, § 2-7, 10-2-79)

Secs. 6-123—6-140. - Reserved.

## ARTICLE VI. - MECHANICAL SYSTEMS<sup>[5]</sup>

*Footnotes:*

— (5) —

**Editor's note**—Section 1 of Ord. No. 332, adopted March 19, 1985, repealed Ord. No. 239, enacted May 20, 1980, from which former Art. VI, relative to mechanical systems was derived. Sections 2—6 of said Ord. No. 332 enacted provisions not specifically amendatory of the Code, which provisions have been included herein at the discretion of the editor as new §§ 6-141—6-143, 6-145 and 6-146. Former § 6-143 relative to permits, inspections and fees and derived from Ord. No. 277, §§ 5, 6, adopted Feb. 1, 1983, has been redesignated as § 6-144 to maintain continuity in the numbering of sections in this article.

Sec. 6-141. - Mechanical code adopted.

Certain documents, copies of which were placed on file in the office of the city clerk, said copies being marked and designated as the International Mechanical Code, 2005 Edition, as published by the International Code Council, be and is hereby adopted as the Mechanical Code of the City of Black Jack, Missouri, for the regulation of mechanical equipment as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Mechanical Code, 2005 Edition are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions, and changes prescribed in this article.

(Ord. No. 332, § 2, 3-19-85; Ord. No. 634, § 32, 6-16-98; Ord. No. 946, § 2, 8-19-08; Ord. No. 968, § 1, 3-17-09; Ord. No. 1005, 9-7-10)

Sec. 6-142. - Jurisdictional titles.

Throughout the International Mechanical Code, 2005 Edition, wherever the terms "name of jurisdiction" or "local jurisdiction" appears it shall be deemed to mean "City of Black Jack, Missouri," wherever the term "department of mechanical inspection" appears it shall be deemed to mean "department of public works," wherever the term "code official" appears it shall be deemed to mean "director of public works," wherever the term "building code" appears it shall be deemed to mean "The BOCA National Building Code/1996, Thirteen Edition," and wherever the term "fire prevention code" appears it shall be deemed to mean "The BOCA National Fire Prevention Code/1996, Tenth Edition."

(Ord. No. 332, § 3, 3-19-85; Ord. No. 634, § 33, 6-16-98; Ord. No. 946, § 2, 8-19-08)

Sec. 6-143. - Amendments to mechanical code.

The International Mechanical Code, 2005 Edition, is amended by additions, deletions, and changes including the changing of articles, sections, subsections and subsection titles and the addition of new sections and subsections so that such amended and added articles, sections and subsections read as follows:

*106.5.2 Fee schedule.* The fees for all plumbing work shall be as established by ordinance.

*106.5.3 Fee refunds.* The director of public works shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than ten (10) percent of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than twenty (20) percent of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The director of public works shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than one hundred eighty (180) days after the date of fee payment.

*108.4 Violation penalties.* Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the director or public works, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of no less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*108.5 Stop work orders.* Upon notice from the director of public works, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where any emergency exists, the director of public works shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of no less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

*SECTION 109 MEANS OF APPEAL:* Deleted.

*903.3 Required fire separation enclosure:* All prefabricated metal chimneys shall be enclosed in a fire resistant shaft with one (1) layer of 5/8 inch gypsum board from the fireplace connection to the under side of the roof sheathing, securely attached with framing material. When the chimney chase is located on an exterior wall of the structure it need only be separated by lining the wall between the chimney chase and the exterior wall with 5/8 inch gypsum board.

(Ord. No. 332, § 4, 3-19-85; Ord. No. 634, § 34, 6-16-98; Ord. No. 946, § 2, 8-19-08; Ord. No. 896, § 1, 12-5-06)

Sec. 6-144. - Permits and inspections; fees.

(a) *Residential*. The director of public works, or other appropriate official, shall charge the following fees for commercial mechanical permits, inspections and plan reviews:

- (1) Fifty dollars (\$50.00) for residential mechanical permits and inspections relating to mechanical installations, replacements, repairs, upgrades and additions not inspected pursuant to subsection 6-19(b) of this article.
- (2) One hundred dollars (\$100.00) for the review of each mechanical equipment plan.

(b) *Commercial*. The director of public works, or other appropriate official, shall charge the following fees for commercial mechanical permits, inspections and plan review:

- (1) Seventy-five dollars (\$75.00) for commercial mechanical permits and inspections relating to mechanical installations, replacements, repairs, upgrades and additions of the following items:

Auto lifts

Blower

Broiler

Clothes dryer (commercial)

Conveyor (power operated)

Cooling towers

Crematory

Dry cleaning unit

Duct furnace

Duct heater

Emergency generators

Exhaust fans and systems

Fan

Fire damper

Forced air furnace

Fryer-fat

Gravity air furnace

Griddle

Grill

High- and low-pressure bodies

Incinerator (commercial)

Incinerator (domestic)  
Infrared heater  
Kettle (gas fired)  
Kiln  
Man lifts  
Oil burners  
Oven (baking or roasting)  
Radiant heating system  
Range (commercial size)  
Refuse chute  
Smoke damper  
Space heater  
Storage tanks  
Tanks over 5000 gallons  
Unfired pressure vessels  
Unit heater  
Vent hoods  
Water heaters over 20 gallons

(2) One hundred dollars (\$100.00) for the review of each mechanical equipment plan.  
(Ord. No. 277, §§ 5, 6, 2-1-83; Ord. No. 596, § 3, 6-18-96; Ord. No. 720, § 3, 8-21-01; Ord. No. 854, § 4, 3-15-05)

**Editor's note—** Ord. No. 277, adopted Feb. 1, 1983, amending this section, was approved at an election held Apr. 5, 1983.

**Note—** See the editor's note following Art. VI of this chapter.

Sec. 6-145. - Article not to affect court proceedings; rights, liability, etc.

Nothing in this article [Ordinance Number 634] or in the mechanical code hereby adopted, shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article [Ordinance Number 634].

(Ord. No. 332, § 5, 3-19-85; Ord. No. 634, § 35, 6-16-98)

Sec. 6-146. - Validity.

If any section, subsection, provision, sentence, clause or phrase of this article or of the International Mechanical Code, 2005 Edition, or of the amendments to the International Mechanical Code, 2005 Edition, is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article or of said code, and the City of Black Jack, Missouri, hereby declares that it would have passed the same, even though such portion so held to be unconstitutional had not been included therein.

(Ord. No. 332, § 6, 3-19-85; Ord. No. 634, § 36, 6-16-98; Ord. No. 946, § 2, 8-19-08)

Sec. 6-147. - Means of appeal.

- (a) *Jurisdiction of board of appeals.* The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by an aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his or her deputy or any other person charged with the enforcement of this article.
- (b) *Filing procedure; cost of appeal.*
  - (1) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works or his or her deputy, the applicable fee established by ordinance for the filing of a notice of appeal as a nonrefundable deposit for the costs of said appeal.
  - (2) The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.
- (c) *Stay of proceedings.* An appeal pursuant to this section shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his or her deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.
- (d) *Information to be furnished to board of adjustment.* It shall be the duty of the director of public works, or his or her deputy, to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and requested by the board.
- (e) *Notice and hearing.* The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his or her attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.
- (f) *Action and decision of board.*
  - (1) In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.
  - (2)

The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.

(g) *Review of decisions of board.*

- (1) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
- (2) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
- (3) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 634, § 37, 6-16-98)

Secs. 6-148—6-149. - Reserved.

ARTICLE VII. - PLUMBING<sup>[6]</sup>

*Footnotes:*

--- (6) ---

**Editor's note**—Section 1 of Ord. No. 336, adopted May 7, 1985, repealed Ord. No. 238, adopted May 20, 1980, from which former Art. VII, relative to the plumbing code was derived. Sections 2—32 of said Ord. No. 336 enacted provisions not specifically amendatory of the code, which provisions have been included herein at the discretion of the editor as new §§ 6-150—6-168, 6-170—6-175.5. Former § 6-158 relative to permit and inspection fees and derived from Ord. No. 277, § 3, adopted Feb. 1, 1983, has been redesignated as § 6-169 to maintain continuity in the numbering of sections in this article.

Sec. 6-150. - Declaration of public necessity.

In accordance with Chapter 341, R.S.Mo, 1969, it is hereby found and determined that adoption of a nationally recognized plumbing code is necessary for the promotion of the public health and safety of the City of Black Jack. This article is enacted pursuant to the provisions of the ordinances of the City of Black Jack and Chapter 341, R.S.Mo, 1969.

(Ord. No. 336, § 2, 5-7-85)

Sec. 6-151. - Plumbing code adopted; amendments.

- (a) *Adoption.* A certain document, copies of which were placed on file in the Office of the City Clerk, said copies being marked and designated as the International Plumbing Code, 1995 Edition, as published by the Building Officials and Code Administrators International and the International Conference of Building Officials, be and is hereby adopted as the plumbing code of the City of Black Jack, Missouri, for the regulation of the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Plumbing Code, 1995 Edition are hereby referred to, adopted and made a part hereof, as if fully set out in this article; provided that should any conflict of interpretations or requirements occur between the provisions of said code and this article, then this article shall apply and prevail.

- (b) *Jurisdictional titles.* Throughout the International Plumbing Code, 1995 Edition, whenever the term "name of jurisdiction" or "local jurisdiction" appears it shall be deemed to mean "City of Black Jack, Missouri," whenever the term "department of plumbing inspection" appears it shall be deemed to mean "department of public works," whenever the term "code official" appears it shall be deemed to mean "director of public works," whenever the term "name of building code" appears it shall be deemed to mean "BOCA National Building Code/1996, Thirteenth Edition," and whenever the term "name of mechanical code" appears it shall be deemed to mean "International Mechanical Code, 1996 Edition."
- (c) *Amendments.* The International Plumbing Code, 1995 Edition, is amended by additions, deletions, and changes including the changing of articles, sections, subsections and subsection titles and the addition of new sections and subsections so that such amended and added articles, sections and subsections read as follows:

*106.5.2 Fee schedule.* The fees for all plumbing work shall be as established by ordinance.

*106.5.3 Fee refunds.* The director of public works shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder which was erroneously paid or collected.
2. Not more than ten percent (10%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than twenty percent (20%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

The director of public works shall not authorize the refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.

*108.4 Violation penalties.* Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair plumbing work in violation of the approved construction documents or directive of the director or public works, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of no less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*108.5 Stop work orders.* Upon notice from the director of public works, work on any plumbing system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the director of public works shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work in or about the structure after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of no less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

*SECTION 109 MEANS OF APPEAL:* Deleted.

*306.6.1 Sewer depth.* Buildings or structures that connect to private sewage disposal systems shall be minimum of twenty-four inches (24") below finished grade at the point of septic tank connection. Buildings or structures that connect to public sewers shall be a minimum of thirty-six inches (36") below grade.

*404.5 Customer facilities.* Customers, patrons and visitors shall be provided with public toilet facilities in structures and tenant spaces intended for public use and utilized as restaurants, nightclubs, gas or filling stations, places of assembly, business and mercantile occupancies. Customer toilet facilities shall be located not more than one (1) story above or below the space required to be provided with customer toilet facilities and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). In covered mall buildings, required facilities shall be based on total square footage, and facilities shall be installed in each individual store or in central toilet areas located in accordance with this section. The maximum travel distance to the central toilet facilities in covered mall buildings shall be measured from the main entrance of any store or tenant space. All public toilet facilities must be in conformance with the Americans with Disabilities Act.

*603.2 Potable water required.* The water distribution system of any building in which plumbing fixtures are installed shall connect to a potable public water supply, if available. A potable public water supply shall be considered available when the nearest property line is located within two hundred feet (200') of a potable public water main. When a potable public water supply is not available, an individual water supply shall be provided.

*609.17 Backflow device testing.* All reduced pressure backflow devices and check assemblies shall be registered and tested annually by a certified individual; as authorized by the State of Missouri.

*701.2 Sewage connection required.* The sanitary drainage system of any building in which plumbing fixtures are installed shall be connected to a public sewer, if available. A public sewer shall be considered available when the nearest property line is located within two hundred feet (200') of a public sewer. When a sewer is not available, sanitary drainage shall be connected to an approved private sewage disposal system. All private sewage disposal systems shall be maintained and shall function without any ground surface discharge.

(Ord. No. 336, §§ 3, 4, 5-7-85; Ord. No. 634, § 38, 6-16-98; Ord. No. 968, § 1, 3-17-09; Ord. No. 896, § 1, 12-5-06; Ord. No. 1005, § 1, 9-7-10)

Sec. 6-152. - Administration and enforcement.

- (a) *Title.* These regulations shall be known as the plumbing code of the City of Black Jack hereinafter referred to as "this code."
- (b) *Scope.* The design and installation of plumbing systems, including sanitary and storm drainage, sanitary facilities, water supplies, storm water and sewage disposal systems, shall comply with the requirements of this code. The design and installation of gas piping, chilled water piping in connection with refrigeration process and comfort cooling, and hot water piping in connection with building heating shall conform to the requirements of the building code. Water and drainage connections to such installations shall be made in accordance with the requirements of this code.
- (c) *Intent.* This code shall be construed liberally and justly to secure the proper installation of systems for furnishing potable water, for sanitary sewage disposal and storm drainage; and to ensure public safety, health and welfare insofar as they are affected by the installation and maintenance of

plumbing.

(Ord. No. 336, § 5, 5-7-85)

Sec. 6-153. - Applicability.

- (a) *Generally.* The provisions of these regulations shall cover all matters affecting or relating to buildings and structures as set forth in this code.
- (b) *Matters not provided for.* Any plumbing requirement essential for the sanitary safety of an existing or proposed building or structure or essential for the safety of the occupants thereof, and which is not specifically covered by this code, shall be determined by the plumbing official.
- (c) *Continuation of unlawful use.* The continuation of occupancy or use of a building or structure or part thereof contrary to the provisions of this code shall be deemed a violation, and subject to the penalties prescribed in section 6-172 of this article.

(Ord. No. 336, § 6, 5-7-85)

Sec. 6-154. - Invalidity of code provisions.

- (a) *Partial invalidity.* In the event any part or provision of this code is held to be illegal or void, this shall not have the effect of making void or illegal any of the other parts or provisions thereof which may or shall be determined to be legal. It shall be presumed that this code would have been passed without such illegal or invalid parts or provisions.
- (b) *Segregation of invalid provisions.* Any invalid part of this code shall be segregated from the remainder of the code by the court holding such part invalid, and the remainder shall remain effective.
- (c) *Existing structures.* The invalidity of any provision in any section of this code as applied to existing buildings and structures shall not be held to affect the validity of such section in its application to buildings and structures hereafter erected.

(Ord. No. 336, § 7, 5-7-85)

Sec. 6-155. - Existing use.

- (a) *Continuation.* The legal use and occupancy of any structure existing on or after the passage of this article [Ordinance Number 336] or for which it had been heretofore approved, may be continued without change except as may be specifically covered in this code or deemed necessary by the plumbing official for the general safety and welfare of the occupants and the public.
- (b) *Change in use.* It shall be unlawful to make any change in the use or occupancy of any structure which would subject it to any special provision of this code without approval of the plumbing official, and certification that such structure meets the intent of the provisions of law governing building construction for the proposed new use and occupancy and that such change does not result in any hazard to public health, safety or welfare.

(Ord. No. 336, § 8, 5-7-85)

Sec. 6-156. - Repairs and maintenance.

- (a) *Ordinary repairs.* Minor repairs or replacements of any existing system may be made in the same manner and arrangement as in the existing system, provided such repairs or replacements are made in a safe and sanitary manner and are approved by the plumbing official.
- (b) *Owner responsibility.* The owner or a designated agent shall be responsible for the safe and sanitary maintenance of the plumbing system in any building or structure at all times.

(Ord. No. 336, § 9, 5-7-85)

Sec. 6-157. - Administrative definitions.

- (a) The term "building official" means the building commissioner of the City of Black Jack or his duly authorized representative.
- (b) The term "office" means the department of public works.
- (c) The term "supervisor" means the director of public works of the City of Black Jack.
- (d) The term "board of registration" means the state board of registration of architects and engineers.
- (e) The term "sewer district" means the St. Louis Metropolitan Sewer District.
- (f) The term "health department" means the St. Louis County Health Department.
- (g) The term "engineer" means a competent engineer registered with the board of registration and authorized to practice engineering in Missouri.
- (h) The term "ground rough-in" or "rough-in" means all soil, waste, vent, water supply, piping and concealed lines.
- (i) The term "minor repairs" shall be construed to mean repairs which involve only the working parts of a faucet or valve, clearance of stoppages, or repairing or replacement of defective faucets or valves may be made without a permit, provided alterations are not made in the existing pipes and fixtures.

(Ord. No. 336, § 10, 5-7-85)

Sec. 6-158. - Authority of building official; supervisor.

- (a) The building official is vested with the executive and administrative authority to see that all laws, ordinances and codes regulating plumbing and sewer installations are observed and enforced in accordance with the administrative practices established by the supervising authority.
- (b) The building official may promulgate reasonable regulations for the purpose of effective administration and enforcement of this article.
- (c) Powers and duties of the supervisor shall be as follows: The supervisor shall inspect all plumbing and sewerage of all buildings, public and private in the course of erection, alteration, reconstruction, or repair, or whenever inspection is deemed necessary by the supervisor. In addition the supervisor shall inspect all water and sewer connections. The supervisor shall make the inspections during normal business hours and shall carry proper credentials which shall be displayed prior to an inspection if the person who owns or controls the property requests same.

(Ord. No. 336, § 11, 5-7-85)

Sec. 6-159. - Relief from personal responsibility.

- (a) The plumbing official officer or employee charged with the enforcement of this code, while acting for the jurisdiction, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of official duties.
- (b) A suit instituted against any officer or employee because of an act performed in the lawful discharge of duties and under the provisions of this code shall be defended by the legal representative of the jurisdiction until the final termination of the proceedings. The plumbing official or any subordinates shall not be liable for costs in any action, suit or proceeding that may be instituted in pursuance of the provisions of this code. Any officer of the department of plumbing inspection, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith.

(Ord. No. 336, § 12, 5-7-85)

#### Sec. 6-160. - Prohibited acts.

The following acts are hereby determined to be "prohibited acts" as that term is used herein:

- (1) Abandonment or willful failure to perform, without justification any home improvement contract or project engaged in or undertaken by a contractor, or willful deviation from or disregard of plans or specification in any material respect without the consent of the owner and approval of appropriate regulating agency.
- (2) Making any substantial misrepresentation in the solicitation or procurement of a home improvement contract, or making any false promise of a character likely to influence, persuade or induce.
- (3) Committing any fraud in the execution of, or in the material alteration of any contract, mortgage, promissory note or other document incident to a home improvement transaction.
- (4) Preparing or accepting any mortgage, promissory note, or other evidence of indebtedness upon the obligations of a home improvement transaction with knowledge that it recites a greater monetary obligation than the agreed consideration for the home improvement work.
- (5) Willful or deliberate disregard and violations of the building, plumbing, electrical, sanitary, fire and health ordinances of the City of Black Jack or failure to abate violations of those ordinances.

(Ord. No. 336, § 13, 5-7-85)

#### Sec. 6-161. - Inspections.

The plumbing official shall make all the required inspections, or may accept reports of inspection by authoritative and recognized services or individuals. All reports of such inspections shall be in writing and certified by a responsible officer of such authoritative service or by the responsible individual. The plumbing official may engage such expert opinion as may be deemed necessary to report on unusual technical issues that may arise, subject to approval by the appointing authority.

(Ord. No. 336, § 14, 5-7-85)

#### Sec. 6-162. - Credentials.

The plumbing official or his authorized representative shall carry proper credentials of office for the purposes of inspecting any or all buildings and premises in the performance of their duties.

(Ord. No. 336, § 15, 5-7-85)

#### Sec. 6-163. - Department records.

The plumbing official shall keep official records of applications received, permits and certificates issued, reports of inspections, and notices and orders issued. Such records shall be retained in the official records so long as the building or structure to which they relate remains in existence unless otherwise provided by other regulations.

(Ord. No. 336, § 16, 5-7-85)

#### Sec. 6-164. - Backflow prevention devices.

Backflow protection devices shall be installed on all water lines where necessary. The installation and location of these devices will be determined by the building official and/or the plumbing official. The contractor will register the installation of each approved backflow prevention device with the plumbing official. The device will be tested and maintained annually.

(Ord. No. 336, § 17, 5-7-85)

Sec. 6-165. - Application for permit.

- (a) *Permit required.* Plumbing work shall not be commenced until a permit for such work has been issued by the plumbing official. Repairs which involve only the working parts of a faucet or valve, clearance of stoppages, or repairing or replacement of defective faucets or valves may be made without a permit, provided alterations are not made in the existing piping or fixtures.
- (b) *Form.* Application for a permit for plumbing work shall be made on forms prepared and provided by the plumbing official and accompanied by an adequate description of the proposed plumbing work.
- (c) *By whom application is made.* Application for a permit shall be made by the person, or an agent, to install all or part of any plumbing system. The applicant shall meet all qualifications established by rules promulgated with this code or by ordinance, resolution, or statute. The full names and addresses of the owner, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(Ord. No. 336, § 18, 5-7-85)

Sec. 6-166. - Issuance of permit.

- (a) *Action on application.* The plumbing official shall examine or cause to be examined all applications for permits, and amendments thereto, within a reasonable time after filing. If the application or the plans do not conform to the requirements of all pertinent laws, such application shall be rejected in writing, stating the reasons therefor. If the plumbing official is satisfied that the proposed work conforms to the requirements of this code and all laws and ordinances applicable thereto, a permit shall be issued as soon as practical.
- (b) *Previous approvals.* A provision in this code shall not require changes in the plumbing system of a building for which a lawful permit has been heretofore issued or otherwise lawfully authorized, and the installation of which shall have been actively prosecuted within ninety (90) days after the effective date of this code and completed with dispatch.
- (c) *Signature to permit.* The plumbing official's signatures shall be attached to every permit, or the signature of an authorized representative shall be affixed thereto.
- (d) *Approved plans.* The plumbing official shall stamp or endorse in writing all sets of corrected plans approved, and one (1) set of such approved plans shall be retained by the plumbing official and the other set shall be kept at the building site, open to inspection of the plumbing official or an authorized representative at all reasonable times.
- (e) *Approval in part.* The plumbing official may issue a permit for the installation of part of a plumbing system before the entire plans and specification for the whole system have been submitted, provided adequate information and detailed statements have been filed complying with all the pertinent requirements of this code. Holders of such permits shall proceed at their own risk with the work and without assurance that a permit for the entire system will be granted.
- (f) *Revocation.* The plumbing official may revoke a permit or approval issued under the provisions of this code in case of any false statement or misrepresentation of fact in the application or on the plans on which the permit or approval was based.
- (g) *Suspension of permit.* Any permit issued shall become invalid if the authorized work is not commenced within six (6) months after issuance of the permit, or if the authorized work is suspended or abandoned for a period of six (6) months after the time of commencing work.

(Ord. No. 336, § 19, 5-7-85)

Sec. 6-167. - Conditions of permit.

- (a) *Payment of fees.* A permit shall not be issued until the fees prescribed have been paid.
- (b) *Compliance with code.* The permit shall be a license to proceed with the work and shall not be construed as authority to violate, cancel or set aside any of the provisions of this Code, except as specifically stipulated by modifications or legally granted variation as described in the application.
- (c) *Compliance with permit.* All work shall conform to the approved application and plans for which the permit has been issued and any approved amendments thereto.

(Ord. No. 336, § 20, 5-7-85)

Sec. 6-168. - Fees; generally.

- (a) *General.* A permit to begin work for new construction or alteration shall not be issued until the application and permit fees prescribed have been paid. Nor shall an amendment to a permit necessitating an additional fee because of the additional work involved be issued until the additional fee shall have been paid.
- (b) *Fee schedule.* The permit fees for all plumbing work shall be as established by ordinance.

(Ord. No. 336, § 21, 5-7-85)

Sec. 6-169. - Permit and inspection fees.

- (a) The director of public works, or other appropriate official, shall charge the following fees for permits, inspections and plan review relating to plumbing installations, replacements, repairs, upgrades and additions:

(1) Permit and inspections:

- a. Building water connection .....\$50.00
- b. Building water connections to well, cistern, etc. ....\$50.00
- c. Sanitary building sewer-lateral .....\$50.00
- d. Storm building sewer-lateral .....\$50.00
- e. Septic tank, absorption trench, filter bed and foundation drain terminus or connection .....\$50.00

(2) One hundred dollars (\$100.00) for the review of each plumbing plan.

(Ord. No. 277, § 3, 2-1-83; Ord. No. 596, § 4, 6-18-96; Ord. No. 634, § 39, 6-16-98; Ord. No. 720, § 4, 8-21-01; Ord. No. 854, § 5, 3-15-05)

**Editor's note—** Ord. No. 277, adopted Feb. 1, 1983, amending this section, was approved at an election held Apr. 5, 1983.

**Note—** See the editor's note to Art. VII of this chapter.

Sec. 6-170. - Inspection.

- (a) *Required.* It shall be the duty of the plumbing official to enforce the provisions of this code and to make such inspections and test as may be required.
- (b) *Inspection reports.* All inspection reports shall be in writing and shall be certified by the approved authority, or responsible officer of the service, or the individual when expert inspection services are accepted. An identifying label or stamp permanently fixed to the product indicating that required inspection has been made shall be accepted in lieu of the aforesaid inspection report in writing if the intent or meaning of such identifying label or stamp is properly substantiated.

(c)

*Final inspections.* Upon completion of the plumbing work, a final inspection shall be made. All violations of the approved plans, and permit shall be noted, and the holder of the permit shall be notified of the discrepancies.

- (d) *Right of entry.* In the discharge of duties, the plumbing official or an authorized representative shall have the authority to enter at any reasonable hour, any building, structure or premises in the jurisdiction to enforce the provisions of this code.

(Ord. No. 336, § 22, 5-7-85)

Sec. 6-171. - Workmanship.

- (a) *Generally.* All work shall be conducted, installed and completed in a workmanlike and acceptable manner so as to secure the results intended by this code and the standards referenced herein.

(Ord. No. 336, § 23, 5-7-85)

Sec. 6-172. - Violations of code; notice; prosecution; penalties.

- (a) *Unlawful acts.* It shall be unlawful to install, extend, alter, repair, or maintain plumbing systems in or adjacent to buildings except in conformity with this code.
- (b) *Notice.* The plumbing official shall serve a notice of violation or order on the person responsible for the installation of plumbing work in violation of the provisions of this code, or in violation of a detailed statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this code. Such order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.
- (c) *Prosecution.* If the notice of violation is not complied with promptly, the plumbing official shall request the legal counsel of the jurisdiction to institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful use of any plumbing system in violation of the provisions of this code or of the order or direction made pursuant thereto.
- (d) *Penalties.* Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall install plumbing work in violation of an approved plan or directive of the plumbing official, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000.00) dollars or imprisonment not exceeding three hundred sixty-five (365) days or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.
- (e) *Abatement.* The imposition of the penalties herein prescribed shall not preclude the legal officer of the jurisdiction from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to stop an illegal act, conduct, business or use of a building or structure in or about any premises.

(Ord. No. 336, § 24, 5-7-85)

Sec. 6-173. - Stop work order.

- (a) *Notice.* Upon notice from the plumbing official that work on any building or structure is being prosecuted contrary to the provision of this code in an unsafe and dangerous manner, such work shall be immediately stopped. The stop work order shall be in writing and shall be given to the owner of the property involved, or to the owner's agent, or to the person doing the work. It shall state the conditions under which the work may be resumed.

(b)

*Unlawful continuance.* Any person who shall continue any plumbing work in or about the structure after having been served with a stop work order, except such work that person is directed to perform to remove a violation or unsafe condition shall be liable to a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00).

(Ord. No. 336, § 25, 5-7-85)

Sec. 6-174. - Notice of approval.

- (a) *Approval.* After the prescribed tests and final inspection indicate the work complies in all respects with this code, a notice of approval shall be issued by the plumbing official.
- (b) *Temporary occupancy.* Upon the request of the holder of a permit, the plumbing official may issue a temporary authorization before the entire work covered by the permit shall have been completed, provided such portion or portions may be put into service safely prior to full completion of the building or structure without endangering health or public welfare.

(Ord. No. 336, § 26, 5-7-85)

Sec. 6-175. - Unsafe conditions.

All plumbing installations, regardless of type, which are unsanitary or which constitute a hazard to human life, health or welfare are hereby declared illegal and shall be abated by repair and rehabilitation or removal.

(Ord. No. 336, § 27, 5-7-85)

Sec. 6-175.1. - Emergency measures; vacating structures.

When, in the opinion of the plumbing official, there is actual and immediate danger of contamination or sanitation hazard which would endanger life, the plumbing official hereby is authorized and empowered to order and require the occupants to vacate a structure forthwith. The plumbing official shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its use or occupancy has been prohibited by the plumbing official." It shall be unlawful for any person to enter such a structure except for the purpose of making the required repairs or removal.

(Ord. No. 336, § 28, 5-7-85)

Sec. 6-175.2. - Means of appeal.

- (a) *Jurisdiction of board of appeals.* The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by an aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his or her deputy or any other person charged with the enforcement of this article.
- (b) *Filing procedure; cost of appeal.*
  - (1) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works or his or her deputy, the applicable fee established by ordinance for the filing of a notice of appeal as a nonrefundable deposit for the costs of said appeal.
  - (2) The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.

- (c) *Stay of proceedings.* An appeal pursuant to this section shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his or her deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.
- (d) *Information to be furnished to board of adjustment.* It shall be the duty of the director of public works, or his or her deputy, to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and requested by the board.
- (e) *Notice and hearing.* The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his or her attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.
- (f) *Action and decision of board.*
  - (1) In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.
  - (2) The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.
- (g) *Review of decisions of board.*
  - (1) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
  - (2) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
  - (3) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 336, § 29, 5-7-85; Ord. No. 634, § 40, 6-16-98)

#### Sec. 6-175.3. - Validity of article.

If any section, subsection, provision, sentence, clause or phrase of this article [Ordinance Number 336] or of the National Standard Plumbing Code 1983, or of the amendments to the 1983 Edition of the National Standard Plumbing Code, is for any reasons held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article [Ordinance Number 336] or of said code, and the city council hereby declares that it would have passed the same, even though such portion so held to be unconstitutional had not been included therein.

(Ord. No. 336, § 30, 5-7-85)

#### Sec. 6-175.4. - Article not to affect court proceedings, rights, liability, etc.

Nothing in this article [Ordinance Number 336] or in the plumbing code hereby adopted, shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article [Ordinance Number 336].

(Ord. No. 336, § 31, 5-7-85)

Sec. 6-175.5. - Violation of article; penalties.

Any person, firm or corporation who shall violate any provision of this article [Ordinance Number 336] or who shall fail to comply with any of the requirements thereof, or who shall erect, construct, alter or repair a structure in violation of an approved plan or directive of the plumbing official, or of a permit or certificate issued under the provisions of this article [Ordinance Number 336], or shall start any work requiring a permit without first obtaining a permit therefor, or who shall continue any work in or about a structure after having been served a stop work order, except for such work which that person, firm or corporation has been directed to perform to remove a violation or unsafe condition, shall upon conviction thereof be punished by a fine of not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding three hundred sixty-five (365) days, or both such fine and imprisonment. Each day that a violation continues shall be deemed a separate offense.

(Ord. No. 336, § 32, 5-7-85)

Sec. 6-175.6. - Validity.

If any section, subsection, provision, sentence, clause or phrase of this article [Ordinance Number 634] or of the International Plumbing Code, 1995 Edition, or of the amendments to the International Plumbing Code, 1995 Edition, is for any reasons held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article [Ordinance Number 336] or of said code, and the city council hereby declares that it would have passed the same, even though such portion so held to be unconstitutional had not been included therein.

(Ord. No. 634, § 41, 6-16-98)

Sec. 6-175.7. - Article not to affect court proceedings, rights, liability, etc.

Nothing in this article [Ordinance Number 634] or in the plumbing code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article [Ordinance Number 634].

(Ord. No. 634, § 42, 6-16-98)

ARTICLE VIII. - PRIVATE SEWAGE DISPOSAL<sup>[7]</sup>

*Footnotes:*

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**Editor's note**—Section 43 of Ord. No. 634, adopted June 16, 1998, deleted Art. VIII, Swimming Pools and enacted new provisions to read as herein set out. Former Art. VIII was comprised of §§ 6-176—6-188, and derived from Ord. No. 124, adopted June 4, 1974.

Sec. 6-176. - Private sewage disposal code adopted.

A certain document, copies of which were placed on file in the Office of the City Clerk, said copies being marked and designated as the International Private Sewage Disposal Code, 1997 Edition, as published by the International Code Council, be and is hereby adopted as the private sewage disposal code of the City of Black Jack, Missouri, for the regulation of the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of sewage systems as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of the International Private Sewage Disposal Code, 1997 Edition are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions, and changes prescribed in this article.

(Ord. No. 634, § 43, 6-16-98)

Sec. 6-177. - Jurisdictional titles.

Throughout the International Private Sewage Disposal Code, 1997 Edition, whenever the term "name of jurisdiction" or "local jurisdiction" appears it shall be deemed to mean "City of Black Jack, Missouri," whenever the term "code official" appears it shall be deemed to mean "director of public works," and whenever the term "building code" appears it shall be deemed to mean "The BOCA National Building Code/1996, Thirteenth Edition."

(Ord. No. 634, § 43, 6-16-98)

Sec. 6-178. - Amendments.

The International Private Sewage Disposal Code, 1997 Edition, is amended by additions, deletions, and changes including the changing of articles, sections, subsections and subsection titles and the addition of new sections and subsections so that such amended and added articles, sections and subsections read as follows:

*101.3 Public sewer connection.* When public sewers become available to the premises served, the use of the private sewage disposal system shall be discontinued within that period of time required by law, but such period shall not exceed one (1) year. The building sewer shall be disconnected from the private sewage disposal system and connected to the public sewer. A public sewer shall be deemed available to a premises when the public sewer is within two hundred feet (200') of the property line of said premises.

*106.4.2 Fee schedule.* The fees for all private sewage disposal work shall be as established by ordinance.

*106.4.3 Fee refunds.* The director of public works shall authorize the refunding of fees as follows:

1. The full amount of any fee paid hereunder that was erroneously paid or collected.
2. Not more than ten percent (10%) of the permit fee paid when no work has been done under a permit issued in accordance with this code.
3. Not more than twenty percent (20%) of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.

*108.4 Violation penalties.* Any person who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter or repair private sewage disposal work in violation of the approved construction documents or directive of the director of public works, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of no less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*108.5 Stop work orders.* Upon notice from the director of public works, work on any private sewage disposal system that is being done contrary to the provisions of this code or in a dangerous or unsafe manner shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to the owner's agent, or to the person doing the work. The notice shall state the conditions under which work is authorized to resume. Where an emergency exists, the director of public works shall not be required to give a written notice prior to stopping the work. Any person who shall continue any work on the system after having been served with a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine of not less than one hundred dollars (\$100.00) or more than five hundred dollars (\$500.00).

*SECTION 109 MEANS OF APPEAL:* Deleted.

(Ord. No. 634, § 43, 6-16-98; Ord. No. 896, § 1, 12-5-06)

Sec. 6-179. - Validity.

If any section, subsection, provision, sentence, clause or phrase of this article [Ordinance Number 634] or of the International Plumbing Code, 1995 Edition, or of the amendments to the International Plumbing Code, 1995 Edition, is for any reasons held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this article [Ordinance No. 336] or of said code, and the city council hereby declares that it would have passed the same, even though such portion so held to be unconstitutional had not been included therein.

(Ord. No. 634, § 43, 6-16-98)

Sec. 6-180. - Article not to affect court proceedings, rights, liability, etc.

Nothing in this article [Ordinance No. 634] or in the private sewage disposal code hereby adopted shall be construed to affect any suit or proceeding pending in any court, or any rights acquired or liability incurred, or any cause or causes of action acquired or existing under any act or ordinance hereby repealed, as cited herein; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this article [Ordinance No. 634].

(Ord. No. 634, § 43, 6-16-98)

Sec. 6-181. - Means of appeal.

(a) *Jurisdiction of board of appeals.* The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by an aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his or her deputy or any other person charged with the enforcement of this article.

(b) *Filing procedure, cost of appeal.*

- (1) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works or his or her deputy, the applicable fee established by ordinance for the filing of a notice of appeal as a nonrefundable deposit for the costs of said appeal.
- (2) The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.

(c) *Stay of proceedings.* An appeal pursuant to this section shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his or her deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.

(d) *Information to be furnished to board of adjustment.* It shall be the duty of the director of public works, or his or her deputy, to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and requested by the board.

(e) *Notice and hearing.* The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his or her attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.

(f) *Action and decision of board.*

- (1) In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.
- (2) The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.

(g) *Review of decisions of board.*

- (1) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
- (2) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
- (3) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 634, § 43, 6-16-98)

Secs. 6-182—6-205. - Reserved.

## ARTICLE IX. - DANGEROUS BUILDINGS<sup>[8]</sup>

*Footnotes:*

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**Cross reference**— *Nuisances generally, Ch. 13.*

**State Law reference**— *Dangerous building ordinances, RSMo. §§ 67.400—67.450.*

### Sec. 6-206. - Purpose and scope.

It is the purpose of this article to provide a just, equitable and practicable method for the repairing, vacation or demolition of buildings or structures which may endanger the life, limb, health, property, safety or welfare of the occupants of such buildings or to the general public, and this article shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter exist in the city.

(Ord. No. 130, § 2, 10-29-74)

### Sec. 6-207. - Defined.

All buildings or structures which have any or all of the following defects shall be deemed dangerous buildings:

- (1) Those whose interior walls or other vertical structural members lift, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- (2) Those which, exclusive of the foundation; show thirty-three (33) percent or more of damage or deterioration of the supporting member or members, of fifty (50) percent of damage or deterioration of the non-supporting enclosing or outside walls or covering.
- (3) Those which have improperly distributed loads upon the floors or roofs, or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) Those which have been damaged by fire, wind or other causes so as to become dangerous to life, safety, or the general health and welfare of the occupants or the people of the city.
- (5) Those which are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, or are likely to cause sickness, or disease, so as to work injury to the health, safety or welfare of those who may occupy such building.
- (6) Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
- (7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication, as determined by the Black Jack Fire Protection District.
- (8) Those which have parts thereof which are so attached that they may fall or injure members of the public or property.
- (9) Those which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this city.

(Ord. No. 130, § 3, 10-29-74)

Sec. 6-208. - Nuisance declared.

All dangerous buildings within the terms of Section 6-207 of this Code are hereby declared to be public nuisances, and shall be repaired, vacated or demolished as provided in this article.

(Ord. No. 130, § 4, 10-29-74)

Sec. 6-209. - Standards for repair, vacation or demolition; demolition permit fee.

(a) *Standards.* The following standards shall be followed in substance by the director of public works and/or his deputy and the city council, in ordering repair, vacation or demolition of any dangerous building:

- (1) If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this article, it shall be ordered repaired.
- (2) If the dangerous building is in such condition as to make it dangerous to the health, safety or general welfare of its occupants, it shall be ordered to be vacated and repaired.
- (3) In all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this article, it shall be demolished.
- (4) In all cases where a dangerous building is a fire hazard existing or erected in violation of the terms of any ordinance of this city, or statute of the state, it shall be repaired or demolished.

(b) *Demolition permit fee.* The director of public works shall charge the following fee for demolition permits:

Demolition permits .....\$25.00

(Ord. No. 130, § 5, 10-29-74; Ord. No. 277, § 7, 2-1-83)

**Editor's note—** Ord. No. 277, adopted Feb. 1, 1983, approved at an election held Apr. 5, 1983, did not specifically amend this Code; hence inclusion of § 7 as § 6-209(b) was at the discretion of the editor. The existing provisions of § 6-209 were designated subsection (a).

Sec. 6-210. - Duties of director of public works; procedures generally.

The director of public works, and/or his deputy, shall have the duty under this article to:

- (1) Inspect, or cause to be inspected, such buildings which appear to be unsafe or are reported in writing as unsafe all residential, institutional, assembly, commercial, industrial, garage, special or miscellaneous occupancy buildings. The purpose of this inspection is to determine only if conditions exist which render such places a dangerous building under this article.
- (2) Inspect any building, wall or structure reported by the fire protection district or police officials of this city as probably existing in violation of this article.
- (3) Notify the city council of such possible conditions, and at the direction of the council notify in writing, either by personal services or by certified mail, return receipt requested, or if service cannot be had by either of these modes, service may be had by publication in a newspaper qualified to publish legal notices for two (2) successive weeks, the owner, occupant, lessee, mortgagee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county, of any building found by him to be a dangerous building within the standards set forth in this article.

The notice required shall state that:

a.

The owner must vacate, vacate and repair, or vacate and demolish said building in accordance with the terms of the notice and this article;

- b. The occupant or lessee must vacate said building or have it repaired in accordance with the notice;
- c. The mortgagee, agent or other persons having an interest in said building as shown by the land records of the recorder of deeds of this county wherein the land is located, may, at his own risk, repair, vacate or demolish or have such work done;

Provided, that any person notified under this subsection to repair, vacate or demolish any building, shall be given such reasonable time not exceeding thirty (30) days to commence the required work unless in the judgment of the director of public works and/or his deputy it is determined to be necessary to extend such time to commence the work; however, no extension shall go beyond ninety (90) days without the approval of the city council.

- (4) The notice provided for in this section shall state a description of the building or structure deemed dangerous, a statement of the particulars which make the building or structure a "dangerous building" and an order requiring the designated work to be commenced within the time, or extension thereof, provided for in the above subsection.
- (5) Report in writing to the city council, the noncompliance with any notice to vacate, repair or demolish.
- (6) Appear at all hearings conducted by the city council and testify as to the condition of dangerous buildings.
- (7) Immediately report to the city council concerning any building found by him to be inherently dangerous and which he determines to be a nuisance per se. By resolution, the council may direct that such building be marked or posted with a written notice reading substantially as follows:

"CONDEMNED

AS

Dangerous and Unsafe

This Structure Known as \_\_\_\_\_

DANGER—KEEP OUT

All persons are hereby notified to keep out as long as this notice remains posted. Any persons willfully destroying, mutilating or removing this card will be punished to the full extent of the law.

Posted under authority granted in Ordinance \_\_\_\_\_ Section 7 of the City of Black Jack.

\_\_\_\_\_  
Date Posted

\_\_\_\_\_  
Director of Public Works"

Provided, however, that the adoption of such a resolution by the city council and the posting of said notice, shall not be construed to deprive all persons entitled thereto by this article to the notice and hearing prescribed herein.

(Ord. No. 130, § 6, 10-29-74)

Sec. 6-211. - Duties of city council.

The city council shall have the power pursuant to this article to:

- (1) Supervise all inspections required by this article, and cause the director of public works, and/or his deputy, to make inspections and perform all the duties required of him by this article. Upon receiving a written complaint that a dangerous building exists in the city, it shall cause an inspection to be made forthwith. If it deems it necessary to the performance of its duties and responsibilities imposed herein, it may request an inspection and report be made to it by any other city department or retain services of an expert whenever it deems such service necessary.
- (2) Upon receipt of a report of the director of public works and/or his deputy, give written notice, either by personal service or by certified mail, return receipt requested, or by publication for two (2) successive weeks in a newspaper qualified to publish legal notices, at least twenty-one (21) days in advance of a hearing date, to the owner, occupant, mortgagee, lessee, agent and all other persons having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, to appear before it on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the director of public works', and/or his deputy's, notice provided for herein.
- (3) Upon receipt of a report of the director of public works, and/or his deputy, and after having given the notice required, the city council shall hold a hearing and hear such testimony as the director of public works, and/or his deputy, and the owner, occupant, mortgagee, lessee or any other person having an interest in said building as shown by the land records of the recorder of deeds of the county wherein the land is located, shall offer relative to the dangerous building. A record of testimony at the hearing shall be made.
- (4) Make written findings of fact from the evidence offered at said hearing as to whether or not the building in question is a dangerous building within the terms of this article.
- (5) If the evidence supports a finding based upon competent evidence that the building or structure is a dangerous building, the city council shall issue an order based upon its findings of fact commanding the owner, occupant, mortgagee, lessee, agent or other persons having an interest in said building as shown by the land records of the county wherein the land is located, to repair, vacate or demolish any building found to be a dangerous building; provided that any person so notified, shall have the privilege of either repairing, or vacating and repairing said building, if such repair will comply with the ordinances of this city or the owner or any person having an interest in said building as shown by the land records of the county wherein the land is located, may vacate and demolish said dangerous building at his own risk to prevent the acquiring by the city of the lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.
- (6) If the owner, occupant, mortgagee or lessee fails to comply with the order within thirty (30) days, the city council shall cause building or structure to be repaired, vacated, demolished as the facts may warrant; and the city council shall certify the charge for such repair, vacation or demolition to the city tax collector as a special assessment represented by a special tax bill against the real property affected; said tax bill shall be a lien upon said property and be enforced to the same extent and in the same manner as all other special tax bills. At the request of the taxpayer, this special tax bill may be paid in installments over a period of not more than ten (10) years; said assessment shall bear interest at the rate of eight (8) percent per annum until paid. The city council shall determine the appropriate number of installment payments.

Sec. 6-212. - Appeals.

Any owner, occupant, lessee, mortgagee, agent or any other person having an interest in a dangerous building as shown by the land records of the recorder of deeds of the county wherein the land is located, may, within thirty (30) days from the receipt of the order of the city council, appeal such decision to the circuit court of the county wherein the land is located, pursuant to the procedure established in Chapter 536 of the Revised Statutes of Missouri.

(Ord. No. 130, § 8, 10-29-74)

Sec. 6-213. - Emergency action.

In cases where it reasonably appears that there is immediate danger to the health, life or safety of any person unless a dangerous building is immediately repaired, vacated or demolished, the director of public works and/or his deputy shall report such facts to the city council and the city council, by resolution, may cause the immediate boarding up of all openings, repair, vacation or demolition of such dangerous building. The costs of such emergency boarding up, repair, vacation or demolition of such dangerous building shall be collected in the same manner as provided in Section 6-211, paragraph (6), of this Code.

(Ord. No. 130, § 9, 10-29-74)

Sec. 6-214. - Violations; disregarding notices or orders.

The owner, occupant or lessee in possession of any dangerous building who shall fail to comply with the order to repair, vacate or demolish said building given by the city council shall be guilty of an offense. Any person removing any notices provided for in this article shall be guilty of an offense.

(Ord. No. 130, § 10, 10-29-74)

Sec. 6-215. - Standardized general conditions and standardized special conditions for public works projects for the city.

For every City of Black Jack public works project, including but not limited to a project involving, in whole or in part, the construction, demolition, maintenance, repair, replacement or addition of improvements for the city, the general conditions and special conditions applicable to the contract between the City of Black Jack and the contractor awarded the contract for the project shall consist of the project-specific general conditions and the project-specific special conditions as published by the city or the city's engineering firm for the project. However, when the public works contract refers to the general conditions or the special conditions and no such project-specific general conditions or project-specific special conditions exist, the general conditions shall be the general conditions dated April 1, 2009 attached to Ordinance No. 974 as Exhibit A and incorporated herein by reference to Ordinance No. 974, and the special conditions shall be the special conditions dated September 18, 2007 attached to Ordinance No. 974 as Exhibit B and incorporated herein by reference. Such general conditions and special conditions are public documents available for inspection and copying upon request.

(Ord. No. 974, § 2, 5-19-09)

**Editor's note—** (Ord. No. 974, § 1, adopted May 19, 2009, repealed § 6-215, in its entirety. Section 2 of said ordinance enacted new provisions to read as herein set out. Prior to amendment, § 6-215 pertained to similar subject matter. See Code Comparative Table for derivation.

**Note—** The forms, referred to in Ordinance No. 974, are on file and available in the office of the Public Works Director.

Sec. 6-216. - Insurance proceeds payable to city.

- (a) *Application of proceeds.* If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, this section establishes the procedure for the payment of twenty-five (25) percent of the insurance proceeds as set forth in this section. This section shall only apply to a covered claim payment which is in excess of fifty (50) percent of the face value of the policy covering a building or other structure.
- (1) The insurer shall withhold from the covered claim payment twenty-five (25) percent of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under this section.
  - (2) The city shall release the proceeds and any interest which has accrued on such proceeds received under subparagraph (1) of this section to the insured or as the terms of the policy and endorsements thereto provide within thirty (30) days after receipt of such insurance moneys, unless the city has instituted legal proceedings under the provisions of subparagraph (6) of Section 6-211 of this Code. If the city has proceeded under the provisions of subparagraph (6) of Section 6-211 of this Code, all moneys in excess of that necessary to comply with the provisions of subparagraph (6) of Section 6-211 for the removal, securing, repair and cleanup of the building or structure, and the lot on which it is located, less salvage value, shall be paid to the insured.
- (b) *Installment payments.* If there are no or insufficient proceeds of any insurance policy as set forth in this section, at the request of the taxpayer, the tax bill may be paid in installments in the manner provided in subparagraph (6) of Section 6-211 of this Code.
- (c) *City not a party to insurance contracts.* This section does not make the city a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under the insurance policy.
- (d) *Certification in lieu of payment.* The city may certify that, in lieu of payment of all or part of the covered claim payment under this section, it has obtained satisfactory proof that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. In this event, the city shall issue a certificate within thirty (30) days after receipt of such proof to permit the covered claim payment to the insured without deduction pursuant to this section. It shall be the obligation of the insured or other person making claim to provide the insurance company with the written certificate provided for in this subsection.

(Ord. No. 1024, § 1, 11-1-11)

Secs. 6-217—6-225. - Reserved.

#### ARTICLE X. - SMOKE AND CARBON MONOXIDE DETECTORS IN DWELLING UNITS

Sec. 6-226. - Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present time include the future, words in singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

*Carbon monoxide detector* means an approved device which detects dangerous emissions produced by fossil fuels, including, without limitation, coal, natural gas, kerosene, oil, propane or wood.

*Dwelling unit* means a structure, building, area, room or combination of rooms occupied by persons for sleeping or living.

*Owner* means any person, firm, partnership, corporation who alone or jointly or severally with other persons, firms, partnerships has legal title to any premises. The term "owner" includes any person, partnership or corporation, who has charge, care or control over the premises as (i) an agent, officer, fiduciary, or employee of the owner; (ii) the conservator, or legal guardian of an owner who is non compos mentis, a minor or otherwise under a disability; (iii) a trustee elected or appointed, or a person required by law to execute a trust, other than a trustee under a deed of trust to serve the payment of money; or (iv) an executor, administrator, personal representative, receiver, fiduciary, officer appointed by any court, or other similar representative of the owner or his estate. The term "owner" does not include a lessee, sublessee or other person who merely has the right to occupy or possess a premises.

*Sleeping area* means a bedroom or room intended for sleeping.

*Smoke detector* means an approved device which detects visible or invisible particles of combustion and shall be either the ionization chamber or the photoelectric type.

(Ord. No. 355, § 1, 3-4-86; Ord. No. 775, §§ 2—4, 1-21-03)

Sec. 6-227. - When smoke and carbon monoxide detectors required.

The owner of each dwelling unit which is constructed, changes ownership, changes tenants, or is rehabilitated after the passage of this article [Ordinance Number 355, adopted March 4, 1986] shall install smoke and carbon monoxide detectors prior to the occupancy or change in occupancy of said dwelling unit. If smoke and carbon monoxide detectors already exist in said dwelling units, the smoke and carbon monoxide detectors must comply with the provisions of this article.

(Ord. No. 355, § 2, 3-4-86; Ord. No. 775, § 5, 1-21-03)

Sec. 6-228. - Installation of smoke detectors; location requirements.

The owner of each existing dwelling unit or newly constructed or rehabilitated dwelling unit subject to this article shall install one (1) smoke detector in each sleeping area of the dwelling unit and at least one (1) smoke detector on each level of the dwelling unit (including the basement), which requirement may be satisfied by a smoke detector installed in a sleeping area on that level. Each smoke detector shall be installed on a wall or the ceiling and away from air vents. Wall-mounted smoke detectors shall be mounted so that the top of the detector is four (4) to twelve (12) inches from the ceiling. Ceiling-mounted smoke detectors shall be attached at least fourteen (14) inches and no more than eighteen (18) inches from the nearest doorway. In a room with a pitched ceiling, the smoke detector shall be attached at or near the ceiling's highest point. The smoke detector in a basement shall be as close as possible to the stairwell. If a dwelling unit undergoes alterations, repairs or additions which require a permit, or if one (1) or more sleeping rooms are added or created in an existing dwelling unit, the entire dwelling unit or building shall be provided with smoke detectors as required for a new dwelling unit under this article. For good cause shown, the director of public works or designee have the authority to modify the location requirements of this section.

(Ord. No. 355, § 3, 3-4-86; Ord. No. 775, § 6, 1-21-03)

Sec. 6-229. - Type of smoke detector.

The owner shall install a smoke detector which is capable of sensing visible or invisible particles of combustion and emitting an audible signal and may be wired directly to the building power supply, or may be powered by self-monitored battery. The smoke detector shall comply with all the specifications of the Underwriters Laboratories, Inc. Standard UL217 (Standard for Safety-Single and Multiple Station Smoke Detectors) 2nd Edition October 4, 1978 as revised May 19, 1983 or any recognized standard testing laboratory that certifies the detector meets the requirement of National Fire Protection Association (NFPA) Standards 72E and 74. Smoke detectors shall bear the label of a nationally recognized standards testing laboratory that indicates that the smoke detectors have been tested and listed under the requirement of UL217 2nd Edition or NFPA 72E and 74.

(Ord. No. 355, § 4, 3-4-86; Ord. No. 775, § 7, 1-21-03)

Sec. 6-230. - Installation of carbon monoxide detectors; location requirements.

The owner of each existing dwelling or newly constructed or rehabilitated unit subject to this article shall install a carbon monoxide detector within twenty (20) feet of each sleeping area and in accordance with the manufacturer's specifications for installation. If a dwelling unit undergoes alterations, repairs or additions which require a permit, or if one (1) or more sleeping rooms are added or created in an existing dwelling unit, the entire dwelling unit or building shall be provided with smoke detectors as required for a new dwelling unit under this article. For good cause shown, the director of public works or designee have the authority to modify the location requirements of this section.

(Ord. No. 775, § 9, 1-21-03)

Sec. 6-231. - Type of carbon monoxide detector.

The owner shall install a carbon monoxide detector which is capable of detecting dangerous emissions produced by fossil fuels, including, without limitation, coal, natural gas, kerosene, oil, propane or wood, and emitting an audible signal and may be wired directly to the building power supply, or may be powered by self-monitored battery. The carbon monoxide detector shall comply with all applicable federal and state regulations pertaining to said detectors and shall bear the label of a nationally recognized standard testing laboratory, and shall meet the standard of UL 2034 or its equivalent.

(Ord. No. 775, § 9, 1-21-03)

Sec. 6-232. - Responsibilities of owner and tenant.

It shall be the responsibility of the owner to supply and install all required detectors. The owner shall be responsible for testing and maintaining detectors in common stairwells. It shall be the responsibility of the tenant to provide and maintain functional batteries for each detector, to test and maintain detectors within dwelling units, and to notify the owner or authorized agent in writing of any deficiencies. The owner shall be responsible for providing each tenant with written information regarding detector testing and maintenance. The owner shall furnish to the tenant at the beginning of a new lease or new tenant, if applicable, written notice of the responsibilities of the tenant and the obligations of owner regarding the detectors, their batteries and their maintenance. New batteries shall be installed in rental units when leased and the same shall be noted on the lease agreement signed by both the owner (or agent) and the tenant.

(Ord. No. 355, § 5, 3-4-86; Ord. No. 775, §§ 8, 10, 1-21-03)

Sec. 6-233. - Enforcement and inspection.

The director of public works or his deputy shall have jurisdiction to inspect dwelling units for the installation of any smoke and carbon monoxide detector required to be installed under this article or any other ordinance. Said inspections may be held between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

(Ord. No. 355, § 6, 3-4-86; Ord. No. 775, §§ 8, 11, 1-21-03)

Sec. 6-234. - Tampering with detectors.

It shall be unlawful for any person to remove batteries or in any way make smoke and carbon monoxide detectors inoperable.

(Ord. No. 355, § 7, 3-4-86; Ord. No. 775, §§ 8, 12, 1-21-03)

Sec. 6-235. - Penalty.

Any owner or other person who is convicted of violating any provision of this article shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

(Ord. No. 355, § 8, 3-4-86; Ord. No. 775, § 8, 1-21-03; Ord. No. 896, § 1, 12-5-06)

Secs. 6-236—6-239. - Reserved.

## ARTICLE XI. - REGISTRATION OF VACANT RESIDENTIAL STRUCTURES

Sec. 6-240. - Purpose and scope.

It is the purpose of this article to provide for effective monitoring and routine inspection of vacant buildings and structures that, due to housing code violations, may endanger the life, limb, health, property, safety or welfare of the general public, and this article shall apply to all residential structures that have been vacant for more than six (6) months and that are subject to housing code violations.

(Ord. No. 852, § 1, 2-15-05)

Sec. 6-241. - Definitions.

The following words and phrases when used in this article shall mean:

*Housing code:* a local building, fire, health, property maintenance, nuisance or other ordinance which contains standards regulating the condition or maintenance of residential buildings.

*Residential structure:* a structure devoted primarily to residential use, whether classified as residential or commercial, and regardless of the number of dwelling units contained within such structure.

(Ord. No. 852, § 1, 2-15-05)

Sec. 6-242. - Registration requirement.

Every parcel of residential property improved by a residential structure or commercial property improved by a structure containing multiple dwelling units, that is vacant, and has been vacant for at least six (6) months, and is characterized by violations of the housing code shall be registered as a vacant residential structure and shall be subject to the registration fee.

(Ord. No. 852, § 1, 2-15-05)

Sec. 6-243. - Designation of vacation residential structures.

- (a) *Registration.* The director of public works, or his or her designee, shall investigate any property that may be subject to registration. Based upon his or her findings, the director of public works shall register as a vacant residential structure any property required to be registered pursuant to this article.
- (b) *Notice of registration.* Within five (5) business days of such registration, the city clerk shall notify the owners of the registered property by mail at their last known address according to the records of the City of Black Jack and St. Louis County. Such notice shall state:
  - (1) A description of the property registered;
  - (2) A description of the housing code violations found on the property;
  - (3) The fact that a semi-annual registration fee has been levied on the property; and
  - (4) The amount of the semi-annual registration fee.
- (c) *Time to cure; reconsideration.* Within thirty (30) days of the date of notification of registration, the property owner may complete any improvements to the property that may be necessary to remove the property from registration under this article and may request a reinspection of the property and reconsideration of the levy of the registration fee. Upon a written request for reconsideration of the levy of the registration fee, which sets out the reasons claimed by the property owner as to why the fee should be waived, the director of public works may waive levy of the registration fee following timely compliance.
- (d) *Appeal of registration and/or reconsideration to municipal court.* Within thirty (30) days of the date of the notice of registration or within thirty (30) days of the date of reconsideration by the director of public works, the property owner may appeal the decision to the Board of Adjustment for the City of Black Jack.

(Ord. No. 852, § 1, 2-15-05; Ord. No. 953, § 1, 12-16-08)

Sec. 6-244. - Registration fee.

- (a) *Amount of fee.* There is hereby established and assessed a semiannual fee in the amount of two hundred dollars (\$200.00) imposed on all owners of property registered under this article.
- (b) *Owner responsible.* It shall be the joint and several responsibility of each owner of property registered pursuant to this Article to pay the semiannual registration fee.
- (c) *Accrual of fee.* The registration fee shall begin to accrue on the beginning of the second calendar quarter after registration by the director of public works or reconsideration by the director of public works; however, in the event that an appeal is filed with the board of adjustment, the registration fee shall begin to accrue on the beginning of the second calendar quarter after the final decision of the board of adjustment or court of competent jurisdiction.
- (d) *Billing procedures; late penalties.* The city clerk shall cause to be mailed to the owner of property registered under this article, at his or her last known address, a bill for the semiannual registration fee. The fee shall be due and payable within thirty (30) days of mailing. In addition to any other penalties provided by law, if an owner fails to pay the fee assessed for such property within thirty (30) days of the date of mailing, a late payment fee of twenty-five dollars (\$25.00) per month shall be assessed for each month during which the registration fee remains unpaid.
- (e)

*Failure to pay fee unlawful.* It shall be unlawful for any owner of property registered pursuant to this article to fail to pay the registration fee imposed for such property. Any owner or other person who is convicted of violating any provision of this article shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00) or by imprisonment for not more than ninety (90) days or by both such fine and imprisonment.

(f) *Collection of delinquent fees; lien on property and other effects of delinquent fees; foreclosure proceedings.*

- (1) *Action to recover.* In addition to any other penalties provided by law, the city may initiate and pursue an action in a court of competent jurisdiction to recover any unpaid registration fees, interest and penalties from any person liable therefore and, in addition, may recover the cost of such action, including reasonable attorneys' fees.
- (2) *Lien on property.* Any registration fee which is delinquent for a period of one (1) year, and any penalties and/or fines imposed in connection with said delinquent registration fee, shall constitute a lien against the property for which the registration fee was originally assessed until the same shall be fully satisfied. The city clerk is authorized to take all steps necessary to file and perfect such liens as may be required or directed by the director of public works from time to time. Upon the bona fide sale of the property to an unrelated party, said lien shall be considered released and the delinquent registration fee forgiven.
- (3) *Obtaining permits prohibited.* In addition to any other penalties provided by law, if an owner fails to pay the registration fee assessed for such property, including any late payment fee subsequently imposed, within sixty (60) days of the date of the mailing of the initial bill, said owner shall not be permitted to apply for, obtain, or renew any city license or permit of any kind until such delinquency has been satisfied.
- (4) *Foreclosure.* Any registration fees which are delinquent for a period of one (1) year shall be subject to foreclosure proceedings in the same manner as delinquent real property taxes. The owner of the property against which the registration fee was originally assessed shall be able to redeem the property only by presenting evidence that the violations of the applicable housing code cited by the director of public works have been cured and presenting payment of all registration fees and penalties.
- (5) *Sale of property.* Upon a bona fide sale of the registered property to an unrelated party, the lien on such property for the registration fees shall be considered released and the delinquent registration fee forgiven.

(Ord. No. 852, § 1, 2-15-05; Ord. No. 953, §§ 2, 3, 12-16-08; Ord. No. 896, § 1, 12-5-06)

Secs. 6-245—6-260. - Reserved.

## ARTICLE XII. - SWIMMING POOLS

Sec. 6-261. - Title.

This article shall be known and may be cited as the City of Black Jack Residential Swimming Pool Safety Ordinance.

(Ord. No. 865, § 1, 6-7-05)

Sec. 6-262. - Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

*Above-ground/on-ground pool:* A swimming pool (excluding a hot tub or spa) wholly located above-ground (excluding underground wiring and drain).

*Barrier:* A fence, a wall, a building wall or a combination thereof which completely surrounds the swimming pool and obstructs access to the swimming pool.

*Director:* City of Black Jack's Housing Director or his/her designee.

*Hot tub:* A hot tub refers specifically to a hydrotherapy unit, normally constructed of wood, designed and assembled in the traditional manner of tubs or casks, with side and bottoms formed of separate boards and the whole shaped to join together by pressure at the surrounding hoops, bands, or rods as distinct from spa units formed of plastic, concrete, metal or other materials.

*In-ground pool:* A swimming pool (excluding a hot tub, spa or an above-ground or on-ground pool) located in whole or in part below ground level.

*Spa, non-self-contained:* A spa, non-self-contained, is a hydromassage pool or tub for recreational or therapeutic use, not located in health-care facilities, designed for immersion of users and usually having filter, heater and motor-driven blower. It may be installed indoors or outdoors, on the ground or on a supporting structure, or in the ground or in a supporting structure. A non-self-contained spa is intended for recreational bathing and contains water over twenty-four (24) inches (610 mm.) deep.

*Spa, self-contained:* A spa, self-contained, is a continuous duty appliance which all control, water-heating and water-circulating equipment is an integral part of the product, located entirely under the spa skirt. A self-contained spa is intended for recreational bathing and contains water over twenty-four (24) inches (610 mm.) deep.

*Swimming pool:* Any structure intended for swimming or recreational bathing that contains water over twenty-four (24) inches deep. This includes in-ground, above-ground and on-ground swimming pools.

*Swimming pool, indoor:* A swimming pool which is totally contained within a structure and surrounded on all four (4) sides by walls of said structure.

*Swimming pool, outdoor:* Any swimming pool which is not an indoor pool.

(Ord. No. 865, § 2, 6-7-05)

Sec. 6-263. - Building permit requirements.

- (a) *Permit required:* It shall be unlawful for any person to install, remove, alter, repair or replace or cause to be installed, removed, altered, repaired, or replaced any swimming pool, spa or hot tub; any plumbing, spa or hot tub gas or drainage piping; or any fixture, swimming pool heater or treating equipment in a building or on a premises without first obtaining a building permit to do such work from the city. In addition, the application shall include any other plans, specifications and related explanatory information necessary to consider the application, such as drains, electrical connections, etc. A building permit shall be obtained for the construction and/or installation of each swimming pool, spa, hot tub, or ancillary building.
- (b) *Exempted work:* No permit shall be required in the case of any repair work as follows: The stopping of leaks in drains, soil, waste or vent pipe, provided, however, that should any trap, drainpipe, soil waste or vent pipe be or become defective and it becomes necessary to remove and replace the same with

new material, the same shall be considered new work and a permit shall be procured and inspection made as herein before provided. No permit shall be required for the clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, when such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

- (c) *Plan review*: The director shall review the application and supporting documentation to assure compliance with this article. The review shall be completed within fifteen (15) working days of receipt of the application and all additional required information. Any application not reviewed within fifteen (15) working days of receipt shall be deemed approved.
- (d) *Permit issuance*: If the proposed construction or installation of the swimming pool, hot tub or spa meets the requirements of this article and all other applicable laws or codes, the director shall issue a permit to proceed with the construction or installation of the swimming pool, hot tub or spa.
  - (1) *Plan review fee*: The plan review fee shall be one hundred dollars (\$100.00).
  - (2) *Building permit and inspection fees*: The fees for permits and inspections relating to the construction or installation of a pool, hot tub or spa are as follows:
    - a. Minimum fee up to and including \$1,000.00 (estimated cost of construction or installation) .....\$50.00
    - b. Each additional \$1,000.00 or fraction thereof .....\$5.00
    - c. Inspection fee for each inspection shall be .....\$25.00
- (e) *Required inspections*.
  - (1) The applicant shall notify the director upon completion of the construction or installation of the swimming pool, hot tub or spa. Upon notification by the applicant, the director shall inspect the swimming pool, hot tub or spa and the fence or barrier to determine if it was constructed in compliance with this article. If the construction or installation meets the requirements of this article, the director shall issue a completion permit allowing the swimming pool, hot tub, or spa to be used. If the construction or installation does not meet the requirements of this article, the director shall inform the applicant that unless the facilities are brought into compliance with the requirements of this article within thirty (30) days from the date of the inspection, a penalty under section 6-273 of this article may be imposed.
  - (2) The director shall perform the inspections within seven (7) days of notification by the applicant. Any swimming pool not inspected within seven (7) days of notification by the applicant shall be deemed approved.
- (f) *No further duty to inspect*. This section shall not be construed to impose a duty on the city to conduct any inspection of a swimming pool, hot tub, spa, fence or barrier after a completion permit is issued pursuant to this section.

(Ord. No. 865, § 3, 6-7-05)

#### Sec. 6-264. - Location on property and size.

Swimming pools shall be set back from property lines the same distance as required by the zoning ordinance for buildings or structures in the zoning district where located. The water surface of a swimming pool shall not exceed fifty (50) percent of the rear yard area of the lot. Where the lot slopes, a concrete waterproofed wall will be required at the downhill side or sides of the swimming pool, which wall shall extend from the lowest depth of the swimming pool to a level of six (6) inches above water surface of the swimming pool so as to prevent flooding of adjoining property in case of leakage or break in the swimming pool.

(Ord. No. 865, § 4, 6-7-05)

Sec. 6-265. - Water purification system.

Every swimming pool shall be provided with a water purification or filter system which is capable of complying with the most current standard of the adopted building code. Inasmuch as water used in bathing accumulates bacteria from the bathers, strict attention must be given to pool sterilization and filtration. The water in the swimming pool shall at all times be sufficiently clear so as to permit the entire bottom of the swimming pool to be clearly visible from the walkway around the swimming pool. Failure to keep the water clear indicates improper sterilization or filtration and constitutes a violation of provisions of this article.

(Ord. No. 865, § 5, 6-7-05)

Sec. 6-266. - Outdoor swimming pool, hot tub and spa barrier requirements.

Outdoor swimming pools, hot tubs or spas shall be fenced so that unsupervised children and animals cannot enter the areas used by bathers. An outdoor swimming pool, including an in-ground, above-ground or on-ground pool, and hot tubs and spas shall be provided with a barrier which shall comply with the following standards and requirements:

- (1) The top of the barrier shall be at least forty-eight (48) inches above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two (2) inches measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be four (4) inches.
- (2) Openings in the barrier shall not allow passage of a four-inch diameter sphere.
- (3) Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
- (4) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than forty-five (45) inches, the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed one and three-fourths ( $1\frac{3}{4}$ ) inches in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed one and three-fourths ( $1\frac{3}{4}$ ) inches in width.
- (5) Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is forty-five (45) inches or more, spacing between vertical members shall not exceed four (4) inches. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed one and three-fourths ( $1\frac{3}{4}$ ) inches in width.
- (6) Maximum mesh size for chain link fences shall be a one and three-fourths-inch-square unless the fence is provided with slats fastened at the top or the bottom which reduce the openings to not more than one and three-fourths ( $1\frac{3}{4}$ ) inches.
- (7)

Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than one and three-fourths (1<sup>3</sup>/<sub>4</sub>) inches.

- (8) Access gates shall comply with the requirements of this section, items (1) through (7), and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool and shall be self-closing and have a self-latching device. Gates other than pedestrian access gates shall have a self-latching device. Where the release mechanism of the self-latching device is located less than fifty-four (54) inches from the bottom of the gate, the release mechanism and openings shall comply with the following:
  - a. The release mechanism shall be located on the pool side of the gate at least 4 inches below the top of the gate; and
  - b. The gate and barrier shall have no opening greater than one-half (1/2) inch within eighteen (18) inches of the release mechanism.
- (9) Where a wall of a dwelling serves as part of the barrier, one (1) of the following conditions shall be met:
  - a. The swimming pool shall be equipped with a powered safety cover in compliance with the most current adopted version of the National Electrical Code.
  - b. All doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and its screen, if present, are opened. The alarm shall sound continuously for a minimum of thirty (30) seconds immediately after the door is opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as a touchpad or switch, to temporarily deactivate the alarm for a single opening. Such deactivation shall last for not more than fifteen (15) seconds. The deactivation switch(es) shall be located at least fifty-four (54) inches above the threshold of the door; or
  - c. Other means of protection, such as self-closing doors with self-latching devices, which are approved by the director, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by a. or b. described above.
- (10) Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure and the means of access is a ladder of steps, then:
  - a. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or
  - b. The ladder or steps shall be surrounded by a barrier which meets the requirements of this section, items (1) through (9). When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four-inch diameter sphere.
- (11) An alternate method of protection for hot tubs and spas may be a locking cover constructed of sturdy material capable of supporting 150 pounds, which cover shall be in place when the pool, tub or spa is not in use.

(Ord. No. 865, § 6, 6-7-05)

#### Sec. 6-267. - Rescue equipment.

Prior to inspection and at all subsequent times, each swimming pool must be equipped with the following:

- (1) A ring or throwing buoy with an attached twenty (20) feet of one-half-inch diameter line, or a pole not less than twelve (12) feet in length.
- (2) A telephone within easy access to the swimming pool.

(Ord. No. 865, § 7, 6-7-05)

Sec. 6-268. - Electrical components and location requirements.

Any electrical components of the swimming pool, and the location selected for placement shall comply with the most recently adopted version of the National Electrical Code.

(Ord. No. 865, § 8, 6-7-05)

Sec. 6-269. - Property rights of neighbors protected.

No swimming pool shall be so located, designed, operated or maintained so as to interfere unduly with enjoyment of property rights of adjoining property owners. Lights shall be shielded or hooded so as to reflect light away from adjoining premises. It shall be unlawful for any person to make or cause to be made any loud or unusual noises or to use radios, phonographs or other musical instruments in such volume which annoys, disturbs or endangers the comfort, repose, health or peace of neighbors or adjoining owners.

(Ord. No. 865, § 9, 6-7-05)

Sec. 6-270. - Existing swimming pools.

Sections 6-265 through 6-268 shall apply to swimming pools existing at the time of enactment of this article as well as new swimming pools permitted hereafter; provided, however, that owners of existing swimming pools shall have ninety (90) days after enactment of this article to comply therewith.

(Ord. No. 865, § 10, 6-7-05)

Sec. 6-271. - Exemptions from article.

A portable spa with a safety cover which complies with ASTM ES13 entitled "Emergency Standard Performance Specifications for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas, and Hot Tubs," 1989 edition, shall be exempt from the provisions of this article. Swimming pools, hot tubs and nonportable spas with safety covers shall not be exempt from the provisions of this article.

(Ord. No. 865, § 11, 6-7-05)

Sec. 6-272. - Removal of pools; requirements.

When removing a swimming pool, the following requirements must be met:

- (1) *In-ground pool.* A licensed contractor must drain all standing water from pool and crush the bottom and all sides of the pool. The pool area must be filled with crushed limestone, rock and dirt, graded, seeded or sodded. The top eighteen (18) inches of the pool area must be filled with dirt only and topped with seeded or sodded grass.
- (2) *Above-ground pool.* Remove all standing water from the pool, remove the pool structure, back fill and grade area as necessary, and plant grass seed or sod.
- (3) A demolition permit shall be obtained from the director prior to commencing demolition.

(Ord. No. 865, § 13, 6-7-05)

Sec. 6-273. - Penalty for violation of article.

Any person or entity violating any provision of this article shall be liable for a fine or penalty not to exceed one thousand dollars (\$1,000.00). Each day such violation continues shall constitute a separate offense.

(Ord. No. 865, § 14, 6-7-05; Ord. No. 896, § 1, 12-5-06)

## Chapter 7 - DRAINAGE AND FLOOD CONTROL<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Definitions and rules of construction generally, § 1-2; signs in floodplain district, § 17.5-4; storm sewers in subdivisions, App. B, § 270; floodplain district regulations, App. C, § 2.*

**State Law reference**— *Planning and zoning powers of cities, RSMo. Ch. 89.*

## ARTICLE I. - IN GENERAL

Secs. 7-1—7-15. - Reserved.

## ARTICLE II. - FLOOD HAZARD AREAS<sup>[2]</sup>

*Footnotes:*

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**Editor's note**— *Ord. No. 1070, § 1, adopted January 20, 2015, repealed the former article II, §§ 7-16—7-26, 7-41—7-47 and 7-51—7-55, and enacted a new article II as set out herein. The former article II pertained to similar subject matter and derived from Ord. No. 376, adopted May 5, 1987; Ord. No. 575, adopted August 1, 1985; Ord. No. 701, § 1, adopted January 16, 2001 and Ord. No. 896, adopted December 5, 2006.*

**Cross reference**— *Buildings and building regulations, Ch. 6.*

## DIVISION 1. - GENERALLY

Sec. 7-16. - Statutory authorization.

The Legislature of the State of Missouri has, in RSMo. § 77.260, delegated the responsibility to local governmental units to adopt floodplain management regulations designed to protect the health, safety, and general welfare. Therefore, the city council of the City of Black Jack, Missouri does ordain the following provisions of this article:

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-17. - Findings of fact.

- (a) *Flood losses resulting from periodic inundation.* The special flood hazard areas of the City of Black Jack, Missouri are subject to inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base; all of which adversely affect the public health, safety and general welfare.
- (b) *General causes of the flood losses.* These flood losses are caused by:
  - (1) The cumulative effect of development in any delineated floodplain causing increases in flood heights and velocities; and

- (2) The occupancy of flood hazard areas by uses vulnerable to floods, hazardous to others, inadequately elevated, or otherwise unprotected from flood damages.
- (c) *Methods used to analyze flood hazards.* The flood insurance study (FIS) that is the basis of this article uses a standard engineering method of analyzing flood hazards which consist of a series of interrelated steps.
- (1) Selection of a base flood that is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation. The base flood selected for this article is representative of large floods which are characteristic of what can be expected to occur on the particular streams subject to this article. It is in the general order of a flood which could be expected to have a one (1) percent chance of occurrence in any one (1) year as delineated on the Federal Insurance Administrator's FIS, and illustrative materials for St. Louis County dated February 4, 2015, as amended, and any future revisions thereto.
  - (2) Calculation of water surface profiles is based on a standard hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
  - (3) Computation of a floodway required to convey this flood without increasing flood heights more than one (1) foot at any point.
  - (4) Delineation of floodway encroachment lines within which no development is permitted that would cause any increase in flood height.
  - (5) Delineation of flood fringe, i.e., that area outside the floodway encroachment lines, but still subject to inundation by the base flood.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-18. - Statement of purpose.

It is the purpose of this article to promote the public health, safety, and general welfare; to minimize those losses described in subsection 7-17(a) of this article; to establish or maintain the community's eligibility for participation in the National Flood Insurance Program (NFIP) as defined in 44 Code of Federal Regulations (CFR) 59.22(a)(3); and to meet the requirements of 44 CFR 60.3(d) by applying the provisions of this article to:

- (1) Restrict or prohibit uses that are dangerous to health, safety, or property in times of flooding or cause undue increases in flood heights or velocities;
- (2) Require uses vulnerable to floods, including public facilities that serve such uses, be provided with flood protection at the time of initial construction; and
- (3) Protect individuals from buying lands that are unsuited for the intended development purposes due to the flood hazard.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-19. - Definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning they have in common usage and to give this article its most reasonable application.

*100-year flood: see "base flood."*

*Accessory structure* means the same as "*appurtenant structure*."

*Actuarial rates*: see "*risk premium rates*."

*Administrator* means the Federal Insurance Administrator.

*Agency* means the Federal Emergency Management Agency (FEMA).

*Agricultural commodities* means agricultural products and livestock.

*Agricultural structure* means any structure used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities.

*Appeal* means a request for review of the director of public work's interpretation of any provision of this article or a request for a variance.

*Appurtenant structure* means a structure that is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure.

*Area of special flood hazard* is the land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year.

*Base flood* means the flood having a one (1) percent chance of being equaled or exceeded in any given year.

*Basement* means any area of the structure having its floor subgrade (below ground level) on all sides.

*Building*: See "*structure*."

*Chief executive officer* or *chief elected official* means the official of the community who is charged with the authority to implement and administer laws, ordinances, and regulations for that community.

*Community* means any state or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

*Development* means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*Elevated building* means, for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*Eligible community* or *participating community* means a community for which the administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

*Existing construction* means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as "existing structures."

*Existing manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Expansion to an existing manufactured home park or subdivision* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Flood or flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland; and/or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Flood boundary and floodway map (FBFM)* means an official map of a community on which the administrator has delineated both special flood hazard areas and the designated regulatory floodway.

*Flood elevation determination* means a determination by the administrator of the water surface elevations of the base flood, that is, the flood level that has a one (1) percent or greater chance of occurrence in any given year.

*Flood elevation study* means an examination, evaluation and determination of flood hazards.

*Flood fringe* means the area outside the floodway encroachment lines, but still subject to inundation by the regulatory flood.

*Flood hazard boundary map (FHBM)* means an official map of a community, issued by the administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A zones.

*Flood insurance rate map (FIRM)* means an official map of a community, on which the administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

*Flood insurance study (FIS)* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

*Floodplain or flood-prone area* means any land area susceptible to being inundated by water from any source (see "flooding").

*Floodplain management* means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

*Floodplain management regulations* means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination

thereof, that provide standards for the purpose of flood damage prevention and reduction.

*Floodproofing* means any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

*Floodway or regulatory floodway* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

*Floodway encroachment lines* means the lines marking the limits of floodways on federal, state and local floodplain maps.

*Freeboard* means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

*Functionally dependent use* means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

*Highest adjacent grade* means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic structure* means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

- (1) By an approved state program as determined by the Secretary of the Interior; or
- (2) Directly by the Secretary of the Interior in states without approved programs.

*Lowest floor* means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable floodproofing design requirements of this article.

*Manufactured home* means a structure, transportable in one (1) or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term *manufactured home* does not include a recreational vehicle.

*Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two (2) or more manufactured home lots for rent or sale.

*Map* means the flood hazard boundary map (FHBM), flood insurance rate map (FIRM), or the flood boundary and floodway map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

*Market value or fair market value* means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

*Mean sea level* means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced.

*New construction* means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the start of construction commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

*New manufactured home park or subdivision* means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

*NFIP* means the National Flood Insurance Program (NFIP).

*Participating community* also known as an "eligible community," means a community in which the administrator has authorized the sale of flood insurance.

*Person* includes any individual or group of individuals, corporation, partnership, association, or any other entity, including federal, state, and local governments and agencies.

*Principally above ground* means that at least fifty-one (51) percent of the actual cash value of the structure, less land value, is above ground.

*Recreational vehicle* means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Remedy a violation* means to bring the structure or other development into compliance with federal, state, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

*Repetitive loss* means flood-related damages sustained by a structure on two (2) separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, equals or exceeds twenty-five (25) percent of the market value of the structure before the damage occurred.

*Risk premium rates* means those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. Risk premium rates include provisions for operating costs and allowances.

*Special flood hazard area*: see "*area of special flood hazard*."

*Special hazard area* means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A and AE.

*Start of construction* includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*State coordinating agency* means that agency of the state government, or other office designated by the governor of the state or by state statute at the request of the administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

*Structure* means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. *Structure* means, for insurance purposes, a walled and roofed building, other than a gas or liquid storage tank that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

*Substantial damage* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred. The term includes repetitive loss buildings (see definition above). For the purposes of this definition, "repair" is considered to occur when the first repair or reconstruction of any wall, ceiling, floor, or other structural part of the building commences. The term does not apply to:

Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement officer and which are solely necessary to assure safe living conditions, or

- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure," or
- (3) Any improvement to a building.

*Substantial improvement* means any combination of reconstruction, alteration, or improvement to a building, taking place during a ten-year period, in which the cumulative percentage of improvement equals or exceeds fifty (50) percent of the current market value of the building. For the purposes of this definition, an improvement occurs when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. This term includes structures, which have incurred repetitive loss or substantial damage, regardless of the actual repair work done. The term does not apply to:

- (1) Any project for improvement of a building required to comply with existing health, sanitary, or safety code specifications which have been identified by the code enforcement official and which are solely necessary to assure safe living conditions, or
- (2) Any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure;" or
- (3) Any building that has been damaged from any source or is categorized as repetitive loss.

*Substantially improved existing manufactured home parks or subdivisions* is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

*Variance* means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

*Violation* means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

*Water surface elevation* means the height, in relation to the national geodetic vertical datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-20. - Lands to which this article applies.

This article shall apply to all lands within the jurisdiction of the City of Black Jack, Missouri identified as numbered and unnumbered A zones and AE zones on the flood insurance rate maps (FIRMs) for St. Louis County on map panels, 29189C0059K and 29189C0067K dated February 4, 2015, as amended, and any future revisions thereto. In all areas covered by this article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the City of Black Jack or its duly

designated representative under such safeguards and restrictions as the City of Black Jack or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community, and as specifically noted in division 3 of this article.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-21. - Compliance.

No development located within the special flood hazard areas of this community shall be located, extended, converted, or structurally altered without full compliance with the terms of this article and other applicable regulations.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-22. - Penalties for violation.

Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand dollars (\$1,000.00), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city council or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-23. - Abrogation and greater restrictions.

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-24. - Interpretation.

In their interpretation and application, the provisions of this article shall be held to be minimum requirements, shall be liberally construed in favor of the governing body, and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-25. - Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This article shall not create a liability on the part of the City of Black Jack, any officer or employee thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-26. - Severability.

If any section, clause, provision, or portion of this article is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this article shall not be affected thereby.

(Ord. No. 1070, § 1, 1-20-15)

Secs. 7-27—7-40. - Reserved.

DIVISION 2. - ADMINISTRATION

Sec. 7-41. - Floodplain development permit required.

A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in section 7-20. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-42. - Designation of floodplain administrator.

The director of public works is hereby appointed to administer and implement the provisions of this article.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-43. - Duties and responsibilities of floodplain administrator.

Duties of the director of public works shall include, but not be limited to:

- (1) Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied;
- (2) Review of all applications for floodplain development permits for proposed development to assure that all necessary permits have been obtained from Federal, state, or local governmental agencies from which prior approval is required by Federal, state, or local law;
- (3) Review all subdivision proposals and other proposed new developments, including, without limitation, manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
- (4) Issue floodplain development permits for all approved applications;
- (5) Notify adjacent communities and the Missouri State Emergency Management Agency (Mo SEMA) prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
- (6) Assure that the flood carrying capacity is not diminished and shall be maintained within the altered or relocated portion of any watercourse;
- (7) Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
- (8)

Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been floodproofed; and

- (9) When floodproofing techniques are utilized for a particular non-residential structure the director of public works shall require certification from a registered professional engineer or architect.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-44. - Application for floodplain development permit.

To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:

- (1) Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
- (2) Identify and describe the work to be covered by the floodplain development permit;
- (3) Indicate the use or occupancy for which the proposed work is intended;
- (4) Indicate the assessed value of the structure and the fair market value of the improvement;
- (5) Specify whether development is located in a designated flood fringe or floodway;
- (6) Identify the existing base flood elevation and the elevation of the proposed development;
- (7) Give such other information as reasonably may be required by the director of public works;
- (8) Be accompanied by plans and specifications for proposed construction; and
- (9) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-45. - Variance procedures.

- (a) *Establishment of appeal board.* The board of adjustment as established by the City of Black Jack shall hear and decide appeals and requests for variances from the floodplain management requirements of this article.
- (b) *Responsibility of appeal board.*
  - (1) Where an application for a floodplain development permit or request for a variance from the floodplain management regulations is denied by the director of public works, the applicant may apply for such floodplain development permit or variance directly to the board of adjustment.
  - (2) The board of adjustment shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the director of public works in the enforcement or administration of this article.
- (c) *Further appeals.* Any person aggrieved by the decision of the board of adjustment or any taxpayer may appeal such decision to the St. Louis County Circuit Court as provided in RSMo § 89.110.
- (d) *Floodplain management variance criteria.* In passing upon such applications for variances, the board of adjustment shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this article, and the following criteria:
  - (1) The danger to life and property due to flood damage;
  - (2) The danger that materials may be swept onto other lands to the injury of others;
  - (3)

The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

- (4) The importance of the services provided by the proposed facility to the community;
  - (5) The necessity to the facility of a waterfront location, where applicable;
  - (6) The availability of alternative locations, not subject to flood damage, for the proposed use;
  - (7) The compatibility of the proposed use with existing and anticipated development;
  - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
  - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (10) The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and
  - (11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems; streets; and bridges.
- (e) *Conditions for approving floodplain management variances.*
- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (½) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, provided subsections (2) through (6) below have been fully considered. As the lot size increases beyond one-half (½) acre, the technical justification required for issuing the variance increases.
  - (2) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places, the state inventory of historic places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation.
  - (3) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
  - (4) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (5) Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (6) A community shall notify the applicant in writing over the signature of a community official that:
    - (1) the issuance of a variance to construct a structure below base flood elevation will result in increased risk premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage, and
    - (2) such construction below the base flood elevation increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-46. - Nonconforming use.

A structure, or the use of a structure or premises that was lawful before the passage or amendment of this article, but which is not in conformity with the provisions of this article, may be continued subject to the following conditions:

- (1) If such structure, use, or utility service is discontinued for three (3) consecutive months, any future use of the building shall conform to this article.
- (2) If any nonconforming use or structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the state inventory of historic places, or local inventory of historic places upon determination.

(Ord. No. 1070, § 1, 1-20-15)

#### Sec. 7-47. - Amendments.

The regulations, restrictions, and boundaries set forth in this article may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties of interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the City of Black Jack. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the Federal Emergency Management Agency (FEMA). The regulations of this article are in compliance with the National Flood Insurance Program (NFIP) regulations.

Secs. 7-48—7-50. - Reserved.

#### DIVISION 3. - PROVISIONS FOR FLOOD HAZARD REDUCTION

#### Sec. 7-51. - General standards.

- (a) No permit for floodplain development shall be granted for new construction, substantial-improvements, and other improvements, including, without limitation, the placement of manufactured homes, within any numbered or unnumbered A zones and AE zones on the FIRM, unless the conditions of this section are satisfied.
- (b) All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this article. If flood insurance study (FIS) data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, state, or other sources.
- (c) Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any numbered A zone or AE zone on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community.
- (d) All new construction, subdivision proposals, substantial improvements, prefabricated structures, placement of manufactured homes, and other developments shall require:

- (1) Design or adequate anchorage to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Construction with materials resistant to flood damage;
- (3) Utilization of methods and practices that minimize flood damages;
- (4) All electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site waste disposal systems be located so as to avoid impairment or contamination; and
- (6) Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
  - a. All such proposals are consistent with the need to minimize flood damage;
  - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
  - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
  - d. All proposals for development, including proposals for manufactured home parks and subdivisions, of five (5) acres or fifty (50) lots, whichever is lesser, include within such proposals base flood elevation data.
- (e) The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent flotation, or if readily removable from the area within the time available after a flood warning.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7-52. - Specific standards.

In all areas identified as numbered and unnumbered A zones and AE zones on the FIRM, where base flood elevation data have been provided, as set forth in subsection 7-51(b) of this article, the following provisions are required:

- (1) *Residential construction.* New construction or substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above base flood elevation.
- (2) *Non-residential construction.* New construction or substantial improvement of any commercial, industrial, or other non-residential structures, including, without limitation, manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be floodproofed so that, below the base flood elevation, the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered

professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the director of public works as set forth in subsection 7-43(9) of this article.

- (3) Require, for all new construction and substantial improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
  - a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
  - b. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*
  - a. All manufactured homes to be placed within all unnumbered and numbered A zones and AE zones on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
  - b. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones and AE zones on the community's FIRM on sites:
    1. Outside of manufactured home park or subdivision;
    2. In a new manufactured home park or subdivision;
    3. In an expansion to an existing manufactured home park or subdivision; or
    4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial-damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to at least one (1) foot above the base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - c. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones and AE zones on the community's FIRM, that are not subject to the provisions of subsection 7-52(4)b. of this article, be elevated so that either:
    1. The lowest floor of the manufactured home is at least one (1) foot above the base flood elevation; or
    2. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) *Recreational vehicles.* Require that recreational vehicles placed on sites within all unnumbered and numbered A zones and AE zones on the community's FIRM either:

- a. Be on the site for fewer than one hundred eighty (180) consecutive days,
  - b. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type utilities and security devices, and has no permanently attached additions); or
  - c. Meet the permitting, elevation, and the anchoring requirements for manufactured homes of this article.
- (6) *Critical facilities.* All new or substantially improved critical nonresidential facilities, including, but not limited to, governmental buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communication centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the 500-year flood level or together with attendant utility and sanitary facilities, be floodproofed so that below the 500-year flood level the structure is water tight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. Such certification shall be provided to the director of public works as set forth in subsection 7-43(9) of this article. All critical facilities shall have access routes that are above the elevation of the 500-year flood.
- (7) *Hazardous materials.* All hazardous material storage and handling sites shall be located out of the floodplain.

(Ord. No. 1070, § 1, 1-20-15)

#### Sec. 7-53. - Floodways.

Located within areas of special flood hazard established in section 7-20 of this article are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of flood waters that carry debris and potential projectiles, the following provisions shall apply:

- (1) The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
- (2) The community shall prohibit any encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (3) If subsection 7-53(2) of this article is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this division 3.
- (4) In unnumbered A zones on the FIRM, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state, or other sources as set forth in subsection 7-51(b) of this article.

(Ord. No. 1070, § 1, 1-20-15)

Sec. 7.5-1. - Introduction/purpose.

- (a) During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Deposits of eroded soil also necessitate maintenance of sewers and ditches and the dredging of lakes. In addition, clearing and grading during construction cause the loss of native vegetation necessary for terrestrial and aquatic habitat. Construction activities also utilize materials and generate wastes, which if not properly controlled can pollute receiving waters.
- (b) The purpose of this article is to safeguard persons, protect property, and prevent damage to the environment in the City of Black Jack. This article will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of Black Jack.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-2. - Definitions.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein.

*Best management practices* or *BMPs*: Practices, procedures or a schedule of activities to reduce the amount of sediment and other pollutants in storm water discharges associated with construction and land disturbance activities.

*Clearing*: Any activity that removes the vegetative surface cover.

*Construction or land disturbance site* or *site*: A parcel of land or a contiguous combination thereof, where grading work is performed as part of a single unified plan of development.

*Department*: Department of Public Works of the City of Black Jack.

*Drainage way*: Any channel that conveys surface runoff through a site.

*Erosion*: The wearing away of land surface through the action of wind or water.

*Erosion control*: Any BMP that prevents or minimizes erosion.

*Grading*: Reshaping the ground surface through excavation and/or fill of material, including the resulting conditions.

*Land disturbance activities*: Any activity such as clearing, grading or any other action which results in removal of the natural site vegetation and destruction of the root zone or otherwise results in leaving the ground surface exposed to soil erosion through the action of wind or water.

*MDNR*: The Missouri Department of Natural Resources.

*MSD*: The Metropolitan St. Louis Sewer District.

*Perimeter control*: A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

*Phasing*: Clearing a parcel of land in distinct phases, with the stabilization of each phase substantially completed before the clearing of the next.

*Runoff coefficient*: The fraction of total rainfall that will appear at the outfalls from a site.

*Sediment control*: Any BMP that prevents eroded sediment from leaving a site.

*Site disturbance permit*: A permit issued by the city authorizing disturbance of the land at a specific site subject to conditions stated in the permit.

*Stabilization*: The use of BMPs that prevent exposed soil from eroding including improvements and structures for the control of erosion, runoff, and grading.

*Start of construction*: The first land disturbing activity associated with a development, including land preparation such as clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

*Storm water pollution prevention plan or SWPPP*: A management plan, the purpose of which is to ensure the design, implementation, management and maintenance of BMPs in order to reduce the amount of sediment and other pollutants in storm water discharges associated with land disturbance activities, comply with the standards of the city and ensure compliance with the terms and conditions of the applicable state permits, including adherence to the land disturbance program contained in Missouri state issued MS4 NPDES permit.

*Watercourse*: A natural or artificial channel or body of water, including, but not limited to, lakes, ponds, rivers, streams, ditches and other open conveyances that carry surface runoff water either continuously or intermittently.

(Ord. No. 892, § 1, 9-19-06)

#### Sec. 7.5-3. - Permits.

- (a) Any person who intends to conduct any land disturbance activity that will disturb ten thousand (10,000) or more square feet or the city engineer determines that such activity may create an erosion, flooding or sedimentation hazard must obtain a site disturbance permit from the City of Black Jack.
- (b) Any person who buys a lot for construction from a person who has been issued a permit under subsection (a) above (unless purchased for the purpose of building their own private residence) must obtain a separate site disturbance permit from the City of Black Jack unless the original permittee retains responsibility for the land disturbance activities on the sold lot.
- (c) Site disturbance permits are not required for the following activities:
  - (1) Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
  - (2) Existing nursery and agricultural operations conducted as a permitted main or accessory use.
- (d) Each permit application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm and shall be accompanied by the required filing fee.
- (e)

Each permit application shall be accompanied by a storm water pollution prevention plan, prepared for the specific site by or under the direction of a professional engineer or registered landscape architect registered in the State of Missouri, and a statement that any land clearing, construction, or development involving the movement of earth shall be in accordance with the storm water pollution prevention plan.

- (f) The permit applicant will be required to file with the city a faithful performance bond, letter of credit, or other improvement security acceptable to the city in an amount of one hundred ten (110) percent of the value of work as determined by the city engineer to cover all costs of improvements, landscaping, maintenance of improvements for such period as specified by the city, and engineering and inspection costs to cover the cost of failure or repair of improvements installed on the site.
- (g) The permit applicant will be required to obtain a land disturbance permit issued by MDNR for any site where one (1) acre or more of land will be disturbed, before beginning any site work authorized by a city permit. This requirement applies to sites of less than one (1) acre that are part of a larger common plan that will ultimately disturb one (1) acre or more.
- (h) The following fees shall be due for permits issued hereunder:
  - (1) A one-time permit issue fee of one hundred dollars (\$100.00);
  - (2) An annual grading inspection fee payable upon the issuance of the permit and renewable each year thereafter in the initial and annual renewal amounts per the following schedule based on the number of acres comprising the area covered by the permit:

*Acreage*

*Fees*

2 or less .....\$400.00

2.1 to 4 .....500.00

4.1 to 6 .....600.00

6.1 to 8 .....700.00

More than 8 acres .....800.00

Permits are not transferable.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-4. - Storm water pollution prevention plan (SWPPP).

- (a) The design requirements in section 7.5-5 shall be taken into consideration when developing the storm water pollution prevention plan and the plan shall include the following:
  - (1) Name, address and telephone number of the site owner and the name, address and telephone number of the individual who will be in overall responsible charge of construction/development activities at the site.
  - (2) Site address or location description.
  - (3) A site map showing the outlines of the total project area, the areas to be disturbed, existing land uses, locations and names of surface water bodies, locations of temporary and permanent BMPs, and such other information as the city engineer may require.
  - (4)

Existing contours at a minimum of two-foot intervals of the site and at least fifty (50) feet onto the adjoining strips of off-site property and proposed contours after completion of the proposed grading and development, based on United States Geological Survey datum, with established elevations at buildings, walks, drives, street and roads; and information on necessary clearing and grubbing, removal of existing structures, excavating, filling, spreading and compacting.

- (5) A natural resources map identifying soils, forest cover, and resources protected under other chapters of this Code.
- (6) An estimate of the runoff coefficient of the site based on one hundred (100) percent perviousness and the runoff coefficient after the construction addressed in the permit application is completed.
- (7) Estimated grading, silt control, retaining walls, detention basin outfall and sodding, revegetation, and other items of work related to grading quantities.
- (8) Details of the site drainage pattern both before and after major grading activities, along with details of the site drainage system that will be utilized during the grading operations. Calculations shall be provided that will verify that the site drainage system has been designed properly.
- (9) Construction access to site.
- (10) Description of BMPs to be utilized to control erosion and sedimentation during the period of land disturbance.
- (11) Description of BMPs to be utilized to prevent other potential pollutants such as construction wastes, toxic or hazardous substances, petroleum products, pesticides, herbicides, site litter, sanitary wastes and other pollutants from entering the natural drainage ways during the period of construction and land disturbance.
- (12) Description of BMPs that will be installed during land disturbance to control pollutants in storm water discharges that will occur after land disturbance activity has been completed.
- (13) Location of temporary off-street parking, vehicle wash down area(s) and water sources for related vehicles.
- (14) Sources of off-site borrow material or spoil sites, and all information relative to haul routes, trucks and equipment. Approval of the haul route from the agency having jurisdiction over the road(s) along the haul route.
- (15) The anticipated sequence of construction and land disturbance activities, including installation of BMPs, removal of temporary BMPs, stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date(s) on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
- (16) All erosion and sediment control measures necessary to meet the objectives of this chapter throughout all phases of construction and after completion of site development. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
- (17) Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures. Off site areas shall be restored with sod of like type as the existing sod.

- (18) Provisions for maintenance of erosion, sediment and storm water management control facilities during the site disturbance phase, including easements and estimates of the cost of maintenance.
  - (19) Plans for responding to any loss of contained sediment to include the immediate actions the permittee will take in case of a containment failure. This plan must include documentation of actions and mandatory reporting to the Department of Public Works of the City of Black Jack.
  - (20) Schedules and procedures for routine inspections of any structures provided to prevent pollution of storm water or to remove pollutants from storm water and of the site in general to ensure all BMPs are continually implemented and are effective.
- (b) The permittee shall amend the storm water pollution prevention plan whenever:
- (1) Design, operation or maintenance of BMPs is changed;
  - (2) Design of the construction project is changed such that it could significantly affect the quality of the storm water discharges;
  - (3) Site operator's inspections indicate deficiencies in the SWPPP or any BMP;
  - (4) Inspections by the city or by MDNR indicate deficiencies in the SWPPP or any BMP;
  - (5) The SWPPP is determined to be ineffective in significantly minimizing or controlling erosion or excessive sediment deposits in streams or lakes;
  - (6) The SWPPP is determined to be ineffective in preventing pollution of waterways from construction wastes, chemicals, fueling facilities, concrete truck washouts, toxic or hazardous materials, site litter or other substances or wastes likely to have an adverse impact on water quality;
  - (7) Total settleable solids from a storm water outfall exceeds 0.5 ml/L/hr if the discharge is within the prescribed proximity of a "Valuable Resource Water" as defined by MDNR;
  - (8) Total settleable solids from a storm water outfall exceeds two and five-tenths (2.5) ml/L/hr for any other outfall; or
  - (9) The city or MDNR determines violations of water quality standards may occur or have occurred.
- (c) The permittee shall:
- (1) Notify all contractors and other entities (including utility crews, city employees, or their agents) who will perform work at the site, of the existence of the SWPPP and what actions or precautions shall be taken while on site to minimize the potential for erosion and the potential for damaging any BMP;
  - (2) Determine the need for and establish training programs to ensure that all site workers have been trained, as a minimum, in erosion control, material handling and storage, and housekeeping;
  - (3) Provide copies of the SWPPP to all parties who are responsible for installation, operation or maintenance of any BMP; and
  - (4) Maintain a current copy of the SWPPP on the site at all times.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-5. - Design requirements.

- (a) Grading, erosion control practices, sediment control practices, and water course crossings shall be adequate to prevent transportation of sediment from the site to the satisfaction of the city engineer or his or her designee.
- (b)

Cut and fill slopes shall have a slope ratio of no greater than 3:1, except as approved by the city engineer to meet other community or environmental objectives.

- (c) Clearing and grading of natural resources, such as forests and wetlands, shall not be permitted, except when in compliance with all other chapters of this Code.
- (d) Clearing techniques that retain existing vegetation to the maximum extent practicable shall be used, and the time period for disturbed areas to be without vegetative cover shall be minimized to the extent practical, to the satisfaction of the city engineer.
- (e) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
- (f) Phasing shall be required on all sites disturbing greater than five (5) acres, with the size of each phase to be established at plan review and as approved by the city engineer.
- (g) Erosion control requirements shall include the following:
  - (1) Soil stabilization shall be completed within five (5) days of clearing or inactivity in construction.
  - (2) If seeding or another vegetative erosion control method is used, it shall become established within two (2) weeks of installation or the department of public works may require the site to be reseeded or a non-vegetative option employed.
  - (3) Specialized and approved techniques shall be employed to ensure stabilization on steep slopes and in drainage ways.
  - (4) Soil stockpiles must be stabilized or covered at the end of each workday, or perimeter controls must be in place to prevent silt from the stockpile from leaving the site.
  - (5) The entire site must be stabilized, using a heavy mulch layer or another method that does not require germination to control erosion, at the close of the construction season.
  - (6) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
  - (7) Techniques shall be employed to divert upland runoff past disturbed slopes.
- (h) Sediment control requirements shall include:
  - (1) Settling basins, sediment traps, or tanks and perimeter controls.
  - (2) Settling basins shall be provided for each drainage area with ten (10) or more acres disturbed at one time and shall be sized to contain five-tenths (0.5) of an inch of sediment from the drainage area and be able to contain a two-year, twenty-four-hour storm. If the provision of a basin of this size is impractical, other similarly effective BMPs, as evaluated and specified in the SWPPPP, shall be provided.
  - (3) Settling basins shall be designed in a manner that allows adaptation to provide long-term storm water management, as required by the department of public works.
  - (4) Settling basins shall have stabilized spillways to minimize the potential for erosion of the spillway or basin embankment.
  - (5) Protection for adjacent properties by the use of a vegetated buffer strip in combination with perimeter controls.
- (i) Watercourse protection requirements shall include:
  - (1) Encroachment into or crossings of active watercourses/riparian areas and wetlands shall be avoided to the maximum extent practicable. Where applicable, all local, state and federal permits and approvals shall be provided to the department of public works prior to the issuance of a site disturbance permit.

- (2) Stabilization of any watercourse channels before, during, and after any in-channel work.
- (3) If a defined watercourse is to be re-aligned or reconfigured, clearing and grubbing activities within fifty (50) feet of the watercourse shall not begin until all materials and equipment necessary to protect the watercourse and complete the work are on site. Once started, work shall be completed as soon as possible. Areas within fifty (50) feet of the watercourse shall be recontoured and re-vegetated, seeded or otherwise protected within five (5) working days after grading has ceased.
- (4) All storm water conveyances shall be designed according to the criteria of MSD and the necessary MSD permits obtained.
- (5) Stabilization adequate to prevent erosion shall be provided at the outlets of all pipes and paved channels.
- (j) Construction site access requirements shall include:
  - (1) A temporary access road provided at all sites including a vehicle wash-down area with an identified water source supporting all active sites,
  - (2) Other measures required by department of public works in order to ensure that construction vehicles do not track sediment onto public streets or are washed with wash effluent channeled directly into storm drains.
- (k) Control requirements for construction materials, construction wastes and other wastes generated on site shall include provisions, satisfactory to the department of public works, for:
  - (1) Spill prevention and control facilities for materials such as paint, solvents, petroleum products, chemicals, toxic or hazardous substances, substances regulated under the Resource Conservation and Recovery Act (RCRA) or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), and any wastes generated from the use of such materials and substances, including their containers. Any containment systems employed to meet this requirement shall be constructed of materials compatible with the substances contained and shall be adequate to protect both surface and ground water.
  - (2) Collection and disposal of discarded building materials and other construction site wastes, including those listed in subsection (k)(1) above.
  - (3) Litter control.
  - (4) Control of concrete truck washouts.
  - (5) Assurance that on-site fueling facilities will adhere to applicable federal and state regulations concerning storage and dispensers.
  - (6) Provision of sufficient temporary toilet facilities to serve the number of workers on site.

(Ord. No. 892, § 1, 9-19-06)

#### Sec. 7.5-6. - Inspections.

- (a) The department of public works shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the grading, erosion control and sediment control plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the city engineer shall be maintained at the site during the progress of the work. To obtain inspections, the permittee shall notify the department of public works at least two (2) working days before the following:
  - (1) Start of construction;
  - (2) Installation of sediment and erosion measures;

- (3) Completion of site clearing;
  - (4) Completion of rough grading;
  - (5) Completion of final grading;
  - (6) Close of the construction season;
  - (7) Completion of final landscaping.
- (b) The permittee or his/her agent shall make regular inspections of the land disturbance site, including all erosion and sediment and other pollutant control measures, outfalls and off-site receiving waters in accordance with the inspection schedule outlined in the approved SWPPP. Inspections must be scheduled at least once per week and no later than seventy-two (72) hours after heavy rain. The purpose of such inspections will be to ensure proper installation, operation and maintenance of BMPs and to determine the overall effectiveness of the SWPPP and the need for additional control measures. All inspections shall be documented in written form on weekly reports with copies submitted to the department of public works within six (6) days after the heavy rain. The inspection reports are to include the following minimum information:
- (1) Inspector's name and signature;
  - (2) Date of inspection;
  - (3) Observations relative to the effectiveness of the BMPs;
  - (4) Actions taken or necessary to correct deficiencies; and
  - (5) A listing of areas where land disturbance operations have permanently or temporarily stopped.
- In addition, the permittee shall notify the site contractor(s) responsible for any deficiencies identified so that deficiencies can be corrected within seven (7) calendar days of the inspection report.
- (c) The department of public works shall make inspections as deemed necessary to ensure the validity of the reports filed under subsection (b) or to otherwise ensure proper installation, operation and maintenance of storm water BMPs and to determine the overall effectiveness of the SWPPP and the need for additional control measures.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-7. - Enforcement.

- (a) *Stop-work order; revocation of permit.* In the event that any person holding a site disturbance permit pursuant to this chapter violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city engineer may suspend or revoke the site disturbance permit.
- (b) *Violation and penalties.* No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this chapter. Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this ordinance is committed, continued, or permitted, shall constitute a separate offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than one thousand dollars (\$1,000.00) for each offense. In addition to any other penalty authorized by this chapter, any person, partnership, or corporation convicted of violating any of the provisions of this chapter shall be required to bear the expense of such restoration.

- (c) *Project closure requirements.* Any site development escrows or bonds will be not be fully released to the site operator or permittee until all of the following have been completed:
- (1) All temporary storm water control BMPs have been removed and the site has been fully stabilized.
  - (2) All permanent storm water control BMPs have been completed.
  - (3) All final inspections/certifications have been completed by each of the government jurisdictions involved in authorizing the project.
  - (4) All on-site and off-site disturbed areas have been revegetated whereas the city engineer has determined that erosion is no longer a concern.

(Ord. No. 892, § 1, 9-19-06)

Secs. 7.5-8—7.5-24. - Reserved.

## ARTICLE II. - PROCEDURAL GUIDANCE FOR CONSTRUCTION, LAND DISTURBANCE ACTIVITIES AND RELATED STORM WATER CONTROL REQUIREMENTS

Sec. 7.5-25. - Purpose.

The purpose of this guidance manual is to provide direction to municipal officials and staff for implementing the provisions of municipal ordinances pertaining to regulation of land disturbance activities and related storm water controls. This guidance will help promote efficient plan reviews and processing of permit applications so as to benefit the community and to ensure compliance with the terms of the City of Black Jack's state issued MS4 NPDES permit. Certain requirements of Section 4.2.4 of the MS4 permit, as referenced below, are addressed within this guidance manual.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-26. - General provisions.

- (a) The department of public works shall be responsible for enforcing the provisions of the grading, erosion and sediment control ordinance (article I of this chapter). The department of public works shall review all permit applications submitted pursuant to that ordinance and shall issue permits with such conditions as deemed appropriate to enable compliance with the grading ordinance and other related ordinances. The department of public works shall conduct all required inspections of permitted sites and shall be responsible for initiating enforcement actions when violations are identified.
- (b) Persons who intend to disturb land within the City of Black Jack, will be reminded, at the time of initial contact with municipal officials, of the need to obtain a separate land disturbance permit from MDNR for any construction or land disturbance activity that will result in disturbance of one (1) acre or more of land. Persons, intending to disturb such acreage must be informed that site work may not commence until the state permit has been obtained. No municipal permit, for sites of one (1) acre or above, will be issued until a land disturbance permit has been issued by MDNR.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-27. - Water quality considerations.

(See Section 4.2.4.2.4 of the MS4 permit.) During review of site plans, SWPPP and other documents submitted as part of the permit application, the department of public works staff shall consider the potential water quality impacts of the project both during the construction/land disturbance phase and after site development is fully complete. The department staff should consider the provisions within the

Missouri Water Quality Standards, the Missouri Impaired Waters list (303(d) list), the federal Endangered Species Act, the National Historic Preservation Act and proximity to water bodies identified by MDNR as "valuable resource waters" (see listing below). To the maximum extent practicable under state and local laws, the department shall include such conditions in permits as are appropriate to prevent or minimize impacts on water quality. Department staff shall solicit comments or advice, when deemed appropriate, from MDNR, the Missouri Department of Conservation, the soil and water conservation district and such other state and national regulatory bodies as may have expertise related to a specific project or area.

ATTACHMENT TO PROCEDURAL GUIDANCE LISTING OF  
\*MISSOURI VALUABLE RESOURCE WATERS

The Missouri Department of Natural Resources imposes additional requirements in state land disturbance permits for sites from which storm water will discharge to "valuable resource waters." The following table identifies water bodies defined as "valuable resource waters" in MDNR General Permit MO-R109000 and the distances from such water bodies within which additional permit requirements apply:

VALUABLE RESOURCE WATERS	
WATER BODY*	PERMIT MO-R109000 CONDITIONS APPLY IF DISCHARGES FROM LAND DISTURBANCE SITE ARE WITHIN THE FOLLOWING DISTANCES FROM THE WATER BODY
Losing stream	1000 feet
Outstanding national or state resource water	1000 feet
Class L1 lakes or reservoirs used for public drinking water supply	1000 feet
Water body identified as critical habitat for endangered species	1000 feet
Class P stream	100 feet
Class L2 reservoir	100 feet
Biocriteria reference locations	2 miles upstream
Class W (wetland that meets the criteria in the <i>Corps of Engineers Delineation Manual</i> (January 1987))	On site
Groundwater	Discharge to a sinkhole or other direct conduit to groundwater

\* See listings in Missouri Water Quality Standards 10 CSR 20-7.031.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-28. - Public inquiries; complaints.

(See Section 4.2.4.2.5 of the MS4 permit.) The department of public works shall maintain a system for recording and tracking inquiries and complaints received from the public regarding proposed and active land disturbance sites within the City of Black Jack. The following information shall be logged, on a standard form, for each inquiry/complaint:

- Date;
- Name, address and telephone number of the inquiring/complaining party;
- Nature of inquiry/complaint, including all pertinent information related thereto; and
- Follow-up action. If an inspection is performed, all information regarding the date and time, inspector's name, findings and any mitigation or enforcement actions initiated shall be recorded.

All inquiries or complaints must be logged. However, it is up to the sole discretion of the department of public works, with such consultation with other departments or agencies as may be deemed appropriate, as to whether any follow-up action is deemed appropriate. If no follow-up action is deemed necessary, a short explanation shall be recorded on the standard inquiry form.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-29. - Inspections; reports.

(See Section 4.2.4.2.6 of the MS4 permit.) The department of public works shall inspect each permitted site at the frequency specified in article I of this chapter and at such other times as necessary to follow-up on public inquiries/complaints or to follow-up on previously identified deficiencies. The results of all inspections shall be recorded in written reports and maintained in the project file. Inspections shall be carried out in such a way as to determine whether the site operator is complying with all provisions of the City of Black Jack permit.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-30. - Transfer of ownership.

- (a) *Individual lot or lots:* The City of Black Jack ordinances require a permit, as well as controls, for sediment, erosion and other construction site pollutants for disturbed areas of land in excess of one (1) acre disturbed as part of a common plan or sale. That language means the lot(s), when sold to an entity for construction (unless sold to an individual for purposes of building their own private residence), are also subject to ordinance requirements because they are part of the common sale. A current permittee who intends to transfer ownership of a lot or parcel of the overall permitted area is still responsible for the terms of the City of Black Jack permit and the SWPPP and erosion control on that site unless the new owner applies for and receives a separate permit for land disturbance activities. If the current permittee is to retain the permit and responsibility for control of sediment and

other pollutants at the site, then the owner should obtain a copy of an individual lot certification (ILC) from the lot owner(s). The ILC should be properly completed and signed and retained with the SWPPP.

- (b) *Entire tract*: If the entire tract is sold to a single entity, then the City of Black Jack permit shall be terminated and the new owner shall submit an application for a new permit immediately.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-31. - Reference sources.

The staff will provide every permit applicant with the following list of reference and guidance documents, which may be employed in development of the SWPPP. For activities requiring state land disturbance permits, the first two (2) documents listed below are considered mandatory references for all applicants.

- (1) *Storm Water Management for Construction Activities - Developing Pollution Prevention Plans and Best Management Practices* September 1992 - United State Environmental Protection Agency Office of Water, EPA 832-R-92-005;
- (2) *Protecting Water Quality - A field guide to erosion, sediment and storm water best management practices for development sites in Missouri and Kansas* September 1998 - Prepared by the St. Charles County Soil & Water Conservation District, St. Charles, Missouri, the Dam and Reservoir Safety Program, Division of Geology and Land Survey, Missouri Department of Natural Resources, Rolla, Missouri;
- (3) *Urban Conservation Policy Handbook* June 1998 - The Mid-America Association of Conservation Districts, The Missouri Department of Natural Resources, The United States Environmental Protection Agency Region VII;
- (4) *Missouri Standards and Specifications for Highway Construction* 1999 or latest edition - Missouri Highways and Transportation Commission;
- (5) *Standard Construction Specifications for Sewers and Drainage Facilities* 2000 or latest edition - Metropolitan St. Louis Sewer District;
- (6) *Rules and Regulations and Engineering Design Requirements for Sanitary Sewage and Storm Water Drainage Facilities* February 1997 or latest edition - Metropolitan St. Louis Sewer District;
- (7) *Standards Specification for Highway Construction* January 1, 1997 or latest edition - St. Louis County Department of Highway and Traffic;
- (8) *Design Criteria Book for the Preparation of Improvement Plans* March 1, 2000 (Storm Water Design 50.10 to 50.60.) - St. Louis County Department of Highways and Traffic;
- (9) Any City of Black Jack specific guidance documents.

The permit applicant is not limited to the use of these guidance manuals. Other commonly accepted publications may be used for guidance and must be referenced in the SWPPP.

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-32. - Inspections.

The department of public works will conduct inspections of storm water BMPs as follows and at such time the area(s) is (are) accessible:

- (1) Receipt of notification from the permittee that BMPs are in place.

- (2) Receipt of a complaint.
- (3) Receipt of concern/query after a heavy rainstorm.
- (4) Receipt of notification from the permittee that the construction season is closing.
- (5) Receipt of notification from the permittee that the final grading is all complete.
- (6) Completion of the re-vegetation of the site.

(See section 7.5-6 of this chapter and Section 4.2.4.2.6 of the MS4 permit).

(Ord. No. 892, § 1, 9-19-06)

Sec. 7.5-33. - Land Disturbance Code, adopted.

The Land Disturbance Code, as adopted by the County of Saint Louis, Missouri, through last amendatory Ordinance 22,468, approved on September 21, 2005 by County of Saint Louis, Missouri is hereby adopted as the Land Disturbance Code of the City of Black Jack, Missouri, a copy of which is attached hereto, as if fully set out herein.

(Ord. No. 969, § 1, 3-17-09)

Secs. 7.5-34—7.5-49. - Reserved.

### ARTICLE III. - STREAM BUFFER PROTECTION

Sec. 7.5-50. - Findings and purposes.

- (a) Vegetated buffers adjacent to natural watercourses provide numerous environmental protection and resource management benefits, including the following:
  - (1) Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources;
  - (2) Removing pollutants delivered in urban stormwater;
  - (3) Reducing erosion and control sedimentation;
  - (4) Protecting and stabilizing stream banks;
  - (5) Providing for infiltration of stormwater runoff;
  - (6) Maintaining base flow of streams;
  - (7) Contributing organic matter that is a source of food and energy for the aquatic ecosystem;
  - (8) Providing tree canopy to shade streams and promote desirable aquatic habitat;
  - (9) Providing riparian wildlife habitat;
  - (10) Furnishing scenic value and recreational opportunity;
  - (11) Providing opportunities for the protection and restoration of green space.
- (b) The purpose of this article is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:
  - (1) Create buffer zones along the streams of the city for the protection of water resources; and
  - (2) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-51. - Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

*Buffer* means, with respect to a stream, a natural or enhanced vegetated area (established by section 7.5-55(a)(1) below, lying adjacent to the stream.

*Director* means the Director of Public Works for the City of Black Jack and his/her designee.

*Impervious cover* means any man-made paved, hardened or structural surface regardless of material. Impervious cover includes but is not limited to rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.

*Land development* means any land change, including, but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavation, transporting and filling of land, construction, paving and any other installation of impervious cover.

*Land development activity* means those actions or activities which comprise, facilitate or result in land development.

*Land disturbance* means any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

*Land disturbance activity* means those actions or activities which comprise, facilitate or result in land disturbance.

*Floodplain* means any land area susceptible to flooding, which would have at least a one (1) percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e. the regulatory flood.

*Parcel* means any plot, lot or acreage shown as a unit on the latest county tax assessment records.

*Permit* means the permit issued by the director required for undertaking any land development activity.

*Person* means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the state, any interstate body or any other legal entity.

*Riparian* means belonging or related to the bank of a river, stream, lake, pond or impoundment.

*Setback* means, with respect to a stream, the area established by section 7.5-55(a)(2) extending beyond any buffer applicable to the stream.

*Stream* means any stream, beginning at:

- (1) All natural watercourses depicted by a solid or dashed blue line on the most current United State Geological Survey (U.S.G.S.) 7.5 Minute Series (Topographic) Maps for Missouri; or
- (2) A point in the stream channel with a drainage area of twenty-five (25) acres or more.

*Stream bank* means the sloping land that contains the stream channel and the normal flows of the stream. Where no established top-of-bank can be determined, the stream bank will be the "ordinary high water mark" as defined by the Corps of Engineers in Title 33 of the Code of Federal Regulation, Part 328.3.

*Stream channel* means the portion of a watercourse that contains the base flow of the stream.

*Stream protection area or protection area* means, with respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-52. - Applicability.

This article shall apply to all land development activity on property containing a stream protection area. These requirements are in addition to, and do not replace or supersede, any other applicable buffer or flood plain requirements established under state law, and approval or exemption from these requirements does not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-53. - Grandfather provisions.

This article shall not apply to the following activities:

- (a) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this article.
- (b) Existing development and on-going land disturbance activities including, but not limited to, existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
- (c) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this article.
- (d) Land development activity that has been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two (2) years of the effective date of this article.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-54. - Exemptions.

The following specific activities are exempt from this article. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

- (a) Activities for the purpose of building one of the following:
  - (1) A stream crossing by a driveway, transportation route or utility line;
  - (2) Public water supply intake or public wastewater structures or stormwater outfalls;
  - (3) Intrusions necessary to provide access to a property;
  - (4) Public access facilities that must be on the water, including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;

- (5) Unpaved foot trails and paths;
  - (6) Activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
- (b) Public sewer line easements. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including, but not limited to, manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in section 7.5-54(a)(1) above.
  - (c) Land development activities within a right-of-way existing at the time this article takes effect or approved under the terms of this article.
  - (d) Within an easement of any utility existing at the time this article takes effect or approved under the terms of this article, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
  - (e) Emergency work necessary to preserve life or property. However, when emergency work is performed under this section, the person performing it shall report such work to the director on the next business day after commencement of the work. Within ten (10) days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the director to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water, quality of the protection area.
  - (f) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three (3) years after the end of the activities that intruded on the buffer.
  - (g) Any activities approved under a 404 permit issued by the United States Army Corps of Engineers and 401 water quality certification issued by the Missouri Department of Natural Resources.

After the effective date of this article, it shall apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to section 7.5-55(b), below.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-55. - Land development requirements.

- (a) *Buffer and setback requirements.* All land development activity subject to this article shall meet the following requirements:
  - (1) For streams depicted as a solid blue line on the U.S.G.S. map, an undisturbed natural vegetative buffer shall be maintained for fifty (50) feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank. For all other streams subject to this article, an undisturbed natural vegetative buffer shall be maintained for twenty-five (25) feet measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.

(2)

An additional setback shall be maintained for twenty-five (25) feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling, and earthmoving shall be minimized within the setback.

- (3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

(b) *Variance procedures.*

- (1) Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:
- a. Where a parcel was platted prior to the effective date of this article, and its shape, topography or other existing physical condition prevents land development consistent with this article, and the director finds and determines that the requirements of this article prohibit the otherwise lawful use of the property by the owner, the board of adjustment of the city may grant a variance from the buffer and setback requirements hereunder, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.
  - b. Except as provided above, the board of adjustment of the city shall grant no variance from any provision of this article without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the board of adjustment. The city shall give public notice of each such public hearing in a newspaper of general circulation within the city. The city shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way.
- (2) Variances will be considered only in the following cases:
- a. When a property's shape, topography or other physical conditions existing at the time of the adoption of this article prevents land development unless a buffer variance is granted.
  - b. Unusual circumstances when strict adherence to the minimal buffer requirements in this article would create an extreme hardship.
- (3) Variances will not be considered when, following adoption of this article, actions of any property owner of a given property have created conditions of a hardship on that property.
- (4) At a minimum, a variance request shall include the following information:
- a. A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
  - b. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
  - c. A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
  - d. Documentation of unusual hardship should the buffer be maintained;
  - e. At least one (1) alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
  - f. A calculation of the total area and length of the proposed intrusion;
  - g. A stormwater management site plan, if applicable; and,

- h. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
- (5) The following facts will be considered in determining whether to issue a variance:
- a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
  - b. The locations of all streams on the property, including along property boundaries;
  - c. The location and extent of the proposed buffer or setback intrusion; and;
  - d. Whether alternative designs are possible which require less intrusion or no intrusion;
  - e. The long-term and construction water-quality impacts of the proposed variance;
  - f. Whether issuance of the variance is at least as protective of natural resources and the environment.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-56. - Compatibility with other regulations and requirements.

This article is not intended to interfere with, abrogate or annul any other article, rule or regulation, statute or other provision or law. The requirements of this article should be considered minimum requirements, and where any provision of this article imposes restrictions different from those imposed by any other article, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or environment shall be considered to take precedence.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-57. - Additional information requirements for development on buffer zone properties.

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

- (a) A site plan showing:
  - (1) The location of all streams on the property;
  - (2) Limits of required stream buffers and setbacks on the property;
  - (3) Buffer zone topography with contour lines at no greater than five (5)-foot contour intervals;
  - (4) Delineation of forested and open areas in the buffer zone; and,
  - (5) Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
- (b) A description of all proposed land development within the buffer and setback; and,
- (c) Any other documentation that the director may reasonably deem necessary for review of the application to insure that the buffer zone article is addressed in the approval process.

All buffer and setback areas must be recorded on the final plat of the property following plan approval. A note to reference the vegetated buffer shall state: "There shall be no clearing, grading, construction or disturbance of vegetation except as permitted by the City of Black Jack Stream Buffer Protection."

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-58. - Responsibility.

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this article shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon the city, its officers or employees, for injury or damage to persons or property.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-59. - Inspection.

The director may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the director in making such inspections. The city shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this article, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.

No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-60. - Violations, enforcement and penalties.

Any action or inaction which violates the provisions of this article or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

(a) *Notice of violation.*

- (1) If the director determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this article, the director shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this article without having first secured the appropriate permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.
- (2) The notice of violation shall contain:
  - a. The name and address of the owner or the applicant or the responsible person;
  - b. The address or other description of the site upon which the violation is occurring;
  - c. A statement specifying the nature of the violation;
  - d. A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this article and the date for the completion of such remedial action;
  - e. A statement of penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and
  - f.

A statement that the determination of violation may be appealed to the director by filing a written notice of appeal within thirty (30) days after a notice of violation (except that in the event the violation constitutes an immediate danger to public health or safety, twenty-four (24) hours notice shall be sufficient).

- (b) *Penalties.* In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the director shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except that in the event the violation constitutes an immediate danger to public health or public safety, twenty-four (24) hours notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the director may take any one or more of the following actions or impose any one or more of the following penalties:
- (1) *Stop work order.* The director may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
  - (2) *Withhold certificate of occupancy.* The director may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
  - (3) *Suspension, revocation or modification of permit.* The director may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the director may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
  - (4) *Penalties.* For violations of this article, the director may issue a citation to the applicant or other responsible person, requiring such person to appear in the municipal court of the city to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for ninety (90) days or both for each offense. each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-61. - Administrative appeal and judicial review.

- (a) *Administrative appeal.* Any person aggrieved by a decision or order of the director may appeal in writing after the issuance of such decision or order to the board of adjustment, and shall be entitled to a hearing before the board of adjustment of the city.
- (b)

*Judicial review.* Any person aggrieved by a decision or order of the director, after exhausting all administrative remedies, shall have the right to appeal de novo to the Circuit Court of St. Louis County, Missouri.

(Ord. No. 941, § 1, 7-15-08)

Sec. 7.5-62. - Severability.

If any article, section, subsection, paragraph, clause, phrase or provision of this article shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this article.

(Ord. No. 941, § 1, 7-15-08)

## Chapter 8 - FIRE PREVENTION AND PROTECTION<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Definitions and rules of construction generally, § 1-2; alarm system, Ch. 3; charge for false alarms rendered through automatic alarm systems, § 3-9; smoking, § 9-21 et seq.; impersonation of public servants, § 11-83; fires in parks, § 14-45; burning of solid waste, § 18-2; obedience to traffic directions of fire department officials, § 20-6; fire department to obey traffic ordinances, § 20-9; special traffic provisions for authorized emergency vehicles, § 20-11; authority of firemen to direct traffic, § 20-36; following fire apparatus prohibited, § 20-266; vehicles crossing fire hoses, § 20-270.*

**State Law reference**— *Fire prevention power generally, RSMo. § 77.570; fire department authorized, RSMo. § 77.190.*

## ARTICLE I. - IN GENERAL

Sec. 8-1. - Interfering with duties of firefighters.

No person shall, in any manner, interfere with the performance of the official duties of any firefighter or other employee of a fire protection district or municipal fire department, or obstruct him in any manner while performing any duty.

(Ord. No. 176, § 1, 12-6-77)

**State Law reference**— *Obstructing government operations, RSMo. § 576.030.*

Secs. 8-2—8-15. - Reserved.

## ARTICLE II. - FIRE PREVENTION CODE<sup>[2]</sup>

*Footnotes:*

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**Cross reference**— *Buildings and building regulations, Ch. 6.*

Sec. 8-16. - Fire prevention code adopted.

A certain document, copies of which were placed on file in the office of the city clerk, said copies being marked and designated as The BOCA National Fire Prevention Code/1996, Tenth Edition, as published by the Building Officials and Code Administrators International, Inc., be and is hereby adopted as the Plumbing Code of the City of Black Jack, Missouri, for the control of buildings, structures and premises as herein provided; and each and all of the regulations, provisions, penalties, conditions, and terms of The

BOCA National Fire Prevention Code/1996, Tenth Edition, are hereby referred to, adopted and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions, and changes prescribed in this article.

(Ord. No. 237, § 1, 5-20-80; Ord. No. 634, § 44, 6-16-98; Ord. No. 968, § 1, 3-17-09; Ord. No. 1005, § 1, 9-7-10)

Sec. 8-17. - Jurisdictional titles.

Throughout the International Plumbing Code, 1995 Edition, whenever the term "name of jurisdiction" or "local jurisdiction" appears it shall be deemed to mean "City of Black Jack, Missouri," and whenever the term "code official" appears it shall be deemed to mean "director of public works."

(Ord. No. 237, § 2, 5-20-80; Ord. No. 634, § 45, 6-16-98)

Sec. 8-18. - Amendments.

The BOCA National Fire Prevention Code/1996, Tenth Edition, is amended by additions, deletions, and changes including the changing of articles, sections, subsections and subsection titles and the addition of new sections and subsections so that such amended and added articles, sections and subsections read as follows:

*F-107.2 Permits required:* Permits shall be obtained from the director of public works in accordance with the local adopting legislation, in addition to any and all permits required from the Department of Natural Resources and the fire marshal having jurisdiction therein. Permit fees, if any, shall also be stipulated in the local adopting legislation. Issued permits shall be kept on the premises designated therein at all times and shall be readily available for inspection by the director of public works.

*Table F-107.2.3 PERMIT REQUIREMENTS:*

Section	Description	Permit Required	Permit Fee	Inspection Fee
F-402.3	Candles - assembly/education occupancies	Yes	\$25.00	\$10.00
F-403.4	Open burning	Yes	\$25.00	\$10.00
F-404.2	Remove paint with torch	Yes	\$25.00	\$10.00
F-601.4	Assembly/educational occupancies	Yes	\$25.00	\$10.00
F-801.2	Airports, heliports and helistops	Yes	\$25.00	\$10.00

F-901.2	Flammable liquids, bowling lanes	Yes	\$25.00	\$10.00
F-1001.2	Crop ripening and coloring processes	Yes	\$25.00	\$10.00
F-1101.2	Dry cleaning	Yes	\$25.00	\$10.00
F-1201.2	Dust explosion hazard	Yes	\$25.00	\$10.00
F-1301.2	Flammable finishes	Yes	\$25.00	\$10.00
F-1401.2	Fumigation - insecticidal	Yes	\$25.00	\$10.00
F-1501.2	HPM facilities	Yes	\$25.00	\$10.00
F-1601.2	Lumber yard - woodworking plants	Yes	\$25.00	\$10.00
F-1701.2	Matches - bulk storage	Yes	\$25.00	\$10.00
F-1801.2	Oil/gas wells	Yes	\$25.00	\$10.00
F-1901.2	Organic coatings	Yes	\$25.00	\$10.00
F-2001.2	Tents/air-supported structures	Yes	\$25.00	\$10.00
F-2102.1	Wrecking yard, junk yard, waste material- handling	Yes	\$25.00	\$10.00
F-2103.1	Waste handling	Yes	\$25.00	\$10.00
F-2201.2	Welding or cutting	Yes	\$25.00	\$10.00
F-2205.2	Storage of welding cylinders	Yes	\$25.00	\$10.00
F-2207.1	Calcium carbide	Yes	\$25.00	\$10.00
F-2208.1	Acetylene generators	Yes	\$25.00	\$10.00

F-2208.7	Acetylene cylinder storage	Yes	\$25.00	\$10.00
F-2301.2	Hazardous materials	Yes	\$25.00	\$10.00
F-2401.2	Aerosol products	Yes	\$25.00	\$10.00
F-2501.2	Cellulose nitrate plastics	Yes	\$25.00	\$10.00
F-2601.2	Combustible fibers	Yes	\$25.00	\$10.00
F-2701.2	Compressed gases	Yes	\$25.00	\$10.00
F-2801.2	Corrosives	Yes	\$25.00	\$10.00
F-2901.2	Cryogenic liquids	Yes	\$25.00	\$10.00
F-3001.2	Blasting/explosives	Yes	\$25.00	\$10.00
F-3101.2	Fireworks	Yes	\$25.00	\$10.00
F-3201.2	Vehicle repair shop	Yes	\$25.00	\$10.00
F-3201.2	Flammable and combustible liquids - storage, handling, use, processing	Yes	\$25.00	\$10.00
F-3201.2	Flammable and combustible liquids - tanks and equipment	Yes	\$25.00	\$10.00
F-3301.2	Flammable solids	Yes	\$25.00	\$10.00
F-3401.2	Highly toxic and toxic solids and liquids	Yes	\$25.00	\$10.00
F-3501.2	Irritants, sensitizers and other health hazards	Yes	\$25.00	\$10.00
F-3601.2	Liquefied petroleum gases	Yes	\$25.00	\$10.00

F-3701.2	Organic peroxides	Yes	\$25.00	\$10.00
F-3801.2	Liquid and solid oxidizers	Yes	\$25.00	\$10.00
F-3901.2	Pesticides	Yes	\$25.00	\$10.00
F-4001.2	Pyrophoric materials	Yes	\$25.00	\$10.00
F-4101.2	Radioactive material	Yes	\$25.00	\$10.00
F-4201.2	Unstable (reactive) materials	Yes	\$25.00	\$10.00
F-4301.2	Water-reactive materials	Yes	\$25.00	\$10.00

*F-112.3 Penalty for violations:* Any person who shall violate any of the provisions of this code or fail to comply with any order issued pursuant to any section thereof, shall be guilty of a misdemeanor, punishable by a [fine] of no less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or both such fine and imprisonment. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

*F-113.0 MEANS OF APPEAL.* Deleted.

(Ord. No. 237, § 5, 5-20-80; Ord. No. 634, § 46, 6-16-98; Ord. No. 896, § 1, 12-5-06)

Sec. 8-19. - Means of appeal.

- (a) *Jurisdiction of board of appeals.* The board of appeals shall be the board of adjustment of the city and shall have jurisdiction under this article to hear and decide appeals where it is alleged by an aggrieved person that there is error in any order, requirement, decision or determination made by the director of public works or his or her deputy or any other person charged with the enforcement of this article.
- (b) *Filing procedure; cost of appeal.*
  - (1) Any appeal herein shall be taken within thirty (30) days after the decision is rendered by filing with the director of public works, or his or her deputy, a notice of appeal, specifying the grounds therefore, and by depositing with such director of public works or his or her deputy, the applicable fee established by ordinance for the filing of a notice of appeal as a nonrefundable deposit for the costs of said appeal.
  - (2) The director of public works shall forthwith submit to the board of adjustment a copy of this notice of appeal, together with all the papers constituting the record upon which the action appealed from is taken.
- (c)

*Stay of proceedings.* An appeal pursuant to this section shall stay all proceedings in furtherance of the action appealed from, unless the director of public works, or his or her deputy, or the health commissioner shall certify to the board of adjustment, subsequent to the filing of any notice of appeal, that by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by the order of any court of competent jurisdiction.

- (d) *Information to be furnished to board of adjustment.* It shall be the duty of the director of public works, or his or her deputy, to furnish the board of adjustment, upon request, with copies of reports of any or all inspections made by such officers in the matter on appeal and to furnish such other information as may be available to them and requested by the board.
- (e) *Notice and hearing.* The board of adjustment shall fix a time and place for the hearing of appeals. Such hearing shall be had within a reasonable time after the filing of the notice of appeal. Notice of the time and place of hearing shall be sent by mail to the appellant or to his or her attorney of record, and such hearing shall not be less than ten (10) days after the mailing of the notice.
- (f) *Action and decision of board.*
  - (1) In exercising the powers enumerated in this article, the board of adjustment may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as sought to be made.
  - (2) The board of adjustment shall act by majority vote and a quorum shall consist of at least four (4) members. The action of the board shall not become effective until after the resolution of the board setting forth the reason for its decision and the vote of each member participating therein has been spread upon the minutes. Such resolutions, immediately following the board's final decision, shall be filed in the office of the board and shall be open for public inspection.
- (g) *Review of decisions of board.*
  - (1) Any decision of the board of adjustment under this chapter shall be subject to review by a writ of certiorari from any court of competent jurisdiction.
  - (2) In no case shall the appellant be liable for any expense or costs for surveys, investigations or hearings of the board.
  - (3) If a decision appealed from is affirmed, the appearance fee previously deposited by the appellant shall be forfeited, and the money shall be paid into the city treasury. If the decision appealed from shall be reversed or modified, then such appearance fee shall be refunded to the appellant.

(Ord. No. 634, § 47, 6-16-98)

Secs. 8-20—8-29. - Reserved.

ARTICLE III. - FIREWORKS<sup>[3]</sup>

*Footnotes:*

--- (3) ---

**Cross reference—** *Fireworks prohibited in park, § 14-45.*

Sec. 8-30. - Definitions.

[As used in this article the following words shall have the meanings respectively ascribed:]

- (a) *Director* means the director of public works or his duly authorized agent.

- (b) *Fireworks* means and includes any combustible or explosive composition or any substance or combination of substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation and includes but is not limited to: (1) blank cartridges; (2) toy pistols, toy cannons, toy canes and toy guns in which explosives are used; (3) balloons which require fire underneath to propel them, except those balloons used to transport persons; (4) fire crackers; (5) torpedoes; (6) sky rockets; (7) Roman candles; (8) Dago bombs; (9) box fire; (10) colored mines and shells; (11) aerial bombs; (12) missiles; and (13) other devices, articles, or tablets containing any explosives or flammable compound. The term "fireworks," however, shall not include engines used to propel model rockets when used for educational purposes, toy pistols, toy canes, toy guns or other devices in which paper caps are used containing not in excess of an average of twenty-five hundredths of a grain of explosive compound per cap; other items which are not classified by the United States Department of Transportation as "common fireworks," but identified under their regulations as trick noisemakers, toy novelties, toy smoke devices and sparklers and shall include toy snakes, snappers, auto burglar alarms, smoke balls, smoke novelty items, cone or cylindrical fountains, torches, flares, wheels and wire sparklers containing not over one hundred (100) grams of composition per item. Sparklers containing any chlorate or perchlorate salts may not exceed five (5) grams of composition per item.

(Ord. No. 367, § 1, 9-2-86)

Sec. 8-31. - Sale, possession and use prohibited.

- (a) It shall be unlawful for any person, firm or corporation to sell, possess, offer for sale, expose for sale, give, use, discharge or explode fireworks within the City of Black Jack, Missouri except as provided in subsection (c) of this section and Section 8-32.
- (b) For purposes of subsection (a) herein the term "fireworks" in reference to the sale, offer for sale, exposing for sale or gift shall mean all classifications of any type of fireworks whatsoever. The sale of any type of firework, either at wholesale or retail, is prohibited within the corporate limits of the City of Black Jack.
- (c) Nothing in this article shall prohibit the sale, possession, and use of blank cartridges for theatrical purposes, or signal purposes in an athletic contest or sporting events; or items for use of police or military organizations; or flares used by railroads or other public or private transportation agencies for signaling purposes. Nothing contained in this code shall prohibit the possession or use of fireworks for pyrotechnic displays given by any organization, amusement park, officials in charge of public parks, or groups of individuals, provided that they have first obtained a permit from the director.
- (d) The storage or possession of any fireworks in, or on any building, structure, or premise in the City of Black Jack, Missouri, is prohibited, except for those items that are to be used for a pyrotechnic display with approval and permission of the director.

(Ord. No. 367, § 1, 9-2-86)

Sec. 8-32. - Permits for display; rules and regulations.

Permits for pyrotechnic display shall be issued by the director and all applications for permits shall be addressed to the director. Before issuing said permit, the director shall investigate the application, and if he finds that the public safety will not be endangered by such display, he shall issue said permit. The director may promulgate such reasonable rules and regulations governing pyrotechnic displays as he deems necessary to insure public safety and welfare.

(Ord. No. 367, § 1, 9-2-86)

Sec. 8-33. - Inspection.

Any person, firm or corporation applying for a permit under this article shall be required personally to sign the application for such permit. Such signature of such applicant shall be deemed consent by such applicant for the director or any of his duly authorized agents to enter into, have full access to, and search all places where fireworks for pyrotechnic displays are stored. Such entry and search shall be only for the purpose of determining whether there exists now or has existed a violation of this article. Any person, firm or corporation willfully or intentionally interfering with the director or any of his duly authorized agents in the performance of any duty enjoined on them by this article shall, upon conviction, be fined as provided in Section 8-35.

(Ord. No. 367, § 1, 9-2-86)

Sec. 8-34. - Igniting fireworks from or at motor vehicles, or at or near people.

No person shall ignite or discharge any permissible articles of fireworks within or throw the same from a motor vehicle, nor shall any person place or throw any ignited article of fireworks into or at motor vehicle, or at or near any person or group of people.

(Ord. No. 367, § 1, 9-2-86)

Sec. 8-35. - Penalty.

- (a) Any person, firm or corporation violating any of the provisions of this article shall, upon conviction thereof, be fined not less than fifty dollars (\$50.00) and not more than one thousand dollars (\$1,000.00) or by imprisonment not exceeding three (3) months, or both. Notwithstanding the foregoing, any person, firm or corporation violating any of the provisions of this article on or before December 31, 1987, shall, upon conviction thereof, be fined five dollars (\$5.00) for the initial conviction of a violation of this article.
- (b) The city marshal or any of his duly authorized agents shall have the power to seize, confiscate, take and hold for destruction or disposal, pursuant to a court order, any fireworks belonging to any person, firm or corporation violating any provision of this article.

(Ord. No. 367, § 1, 9-2-86; Ord. No. 896, § 1, 12-5-06)

Chapter 9 - HEALTH AND SANITATION<sup>[1]</sup>

*Footnotes:*

— (1) —

**Cross reference**— *Definitions and rules of construction generally, § 1-2; animals, Ch. 5; swimming pools, § 6-176 et seq.; storage of materials constituting health menace, § 11-93; pools and ponds of water, § 11-95; wells and cisterns, § 11-96; solid waste, Ch. 18.*

**State Law reference**— *Health power of city, RSMo. § 77-530.*

ARTICLE I. - IN GENERAL

Sec. 9-1. - County public health ordinance adopted.

- (a) Chapter 602, Sections 602.010 through 602.070, inclusive of the County of St. Louis Public Health Ordinance, as set forth below, is hereby adopted as the health ordinance of the city:

*602.010: Department of Health, Divisions:* 1. There is a Department of Health headed by a Director of Health appointed in accordance with this Ordinance and in accordance with Article IV, Section 4.120 of the County Charter.

2. The Director of Health with the approval of the County Supervisor may from time to time determine the number and nature of the divisions within the Department of Health.

*602.020: St. Louis County Director of Health—Authority, Power and Duties:* 1. The Director of Health shall possess all the powers and duties conferred upon deputy state health commissioners and county health officers by law and by ordinance.

2. In addition to the general powers set forth in subsection 1 of this section the Director of Health shall have the duty and the power to:

- a. See that laws and ordinances relating to public health are observed and enforced;
- b. Establish and maintain such activities and clinics as are needed to promote the public health of the county, including a "Baby Your Baby" program wherein clinic employees shall provide such free coupons from local businesses to expectant mothers and mothers of children of less than one (1) year of age as the director deems appropriate, for the purpose of encouraging clinic attendance;
- c. Administer the programs for the control of rabies in the county;
- d. Inspect the water supply and water supply facilities and sewers and sewer treatment facilities and plumbing facilities to see that they conform with established principle of public health;
- e. Recommend to the County Executive from time to time such proposals as will in his judgement tend to preserve or promote the public health of the county;
- f. Administer those programs authorized by ordinance for the control of weeds, rats and mosquitoes.

3. The Department of Health under the supervision of the Director of Health, shall have general supervision over the public health and the Director is authorized and empowered, with the approval of the County Council, to such rules and regulations consistent with the Charter, laws and ordinances as will tend to promote or preserve the health of the County and carry out the intents and purposes of this chapter.

4. When the Director of Health determines that an area inspection is warranted due to the passage of time since the last inspection, the nature of the building, the condition of the entire area or when the Director has probable cause to believe that a specific health violation exists, he or his authorized agent is authorized and empowered to inspect all buildings, lands, and places as to their conditions for health and sanitation and when necessary prevent the use thereof and require any alterations or changes necessary to make them healthful or sanitary. The Director is empowered to authorize and require any employee or law enforcement officer to enter into and examine premises as provided herein and ascertain the condition thereof so far as the public health may be affected by it and declare and abate nuisances as herein or by law or ordinance provided. If entry is refused for purposes of this section or Section 602.070 of this Chapter, the Director or his authorized agent shall secure a warrant from the appropriate associate circuit judge which warrant shall be issued after the presentation of information indicating that the purpose of the search is reasonable.

*602.030: Records of Director of Health—Fees:* The Director shall keep a record of his acts and orders and shall file in his office all petitions, documents and papers belonging thereto. Copies of such records, petitions, documents and papers when certified by him shall be prima facie evidence in any Court of the facts therein contained. The Director is authorized to charge a fee not to exceed Two Dollars (\$2.00) for the copying and certification of any record, petition, document or paper.

*602.040: Law Enforcement Officer to Report:* All law enforcement officers shall observe the health and sanitary conditions in their districts and shall promptly report to the Director of Health, through the chief law enforcement officer, any disease, nuisance or unsanitary condition.

*602.050: Declaration of Nuisance:* The following are declared to be a nuisance affecting health:

1. All decayed or unwholesome food offered for sale to the public.
2. All diseased animals running at large.
3. All ponds or pools of stagnant water.
4. Carcasses of dead animals not buried or destroyed within 24 hours of death.
5. Accumulations of manure, rubbish, garbage, refuse and human and industrial or noxious or offensive waste, except the normal storage on a farm of manure for agricultural purposes.
6. Privy vaults or garbage cans which are not fly tight.
7. The pollution of any well, cistern, spring, underground water stream, lake, canal, or body of water by sewage or industrial wastes, or other substance harmful to human beings.
8. Dense smoke, noxious fumes, gas and soot, or cinders, in unreasonable quantities, or the presence of any gas, vapor, fume, smoke, dust or any other toxic substance on, in or emitted from the equipment of any premises in quantities sufficient to be toxic, harmful or injurious to the health of any employee or to any premises occupant, or to any other persons.
9. Common drinking cups, roller towels, combs, brushes, or eating utensils in public or semi-private places not properly sanitized for use.
10. Any vehicle used for septic tank cleaning which does not meet the requirements of any ordinance of St. Louis County.
11. Any vehicle used for garbage and rubbish disposal which does not meet the requirements of any ordinance of St. Louis County.
12. All infestations of flies, fleas, roaches, lice, ticks, rats, mice, fly maggots, mosquito larvae and hookworm larvae.
13. The keeping of animals or fowl in close proximity to residences, schools, hospitals, public or semi-public buildings, playgrounds, parks, and other public places, except pet cats, dogs, animals in public or licensed zoos, farm animals and laboratories.
14. Unlicensed dumps.
15. All other acts, practices, conduct, business, occupations, callings, trades, uses of property, and all other things detrimental or certain to be detrimental to the health of the inhabitants of the City of Black Jack.

*602.060: Permits, Certain Businesses:* The Director of Health is authorized to issue permits to owners or operators when such comply with reasonable regulations for the conduct of such business and occupations to prevent the occurrence of public health nuisance which may include registration and statement of the methods or conditions to be employed in their operation or maintenance, for

food vending trucks, water hauling, septic tank cleaning and disposal of water, garbage, offal and rubbish disposal and hauling, dumps, the business of keeping animals or fowl or reptiles, except usual farm animals and fowl.

*602.070: Investigations:* The Director of Health shall make or cause to be made such surveys, investigations, inspections and visits as may be deemed necessary to ascertain the existence of a nuisance within St. Louis County, or to prevent the occurrence of a nuisance within St. Louis County by securing compliance with this ordinance. The Director of Health shall collect or cause to be collected and shall analyze or cause to have analyzed all samples, specimens, materials, or substances from any premises whatsoever wherein or whereon a nuisance is suspected to exist for the purpose of determining the existence of a nuisance or non-compliance with this Chapter. Every owner, occupant, permit holder, tenant or employee of a premises, every other person affected by a nuisance, and every person having information concerning the facts about the creation or the existence or the maintenance of a nuisance shall furnish to the Director of Health or his agent such facts, information, or records as he may have or obtain when requested to do so.

- (b) The director of health of the county is hereby authorized to act as the director of health of the city and the director and his agents shall have full power and authority to enforce the terms of this section.
- (c) A violation of any provisions of this section or any rule or regulation adopted hereunder shall be a misdemeanor.

(Ord. No. 187, §§ 1—3, 8-1-78; Ord. No. 634, § 48, 6-16-98)

Secs. 9-2—9-20. - Reserved.

ARTICLE II. - SMOKING<sup>[2]</sup>

*Footnotes:*

— (2) —

**Editor's note**—Ordinance No. 536, adopted May 17, 1994, did not specifically amend this Code; hence, codification of §§ 1—5 of said ordinance as §§ 9-21—9-25 herein was at the editor's discretion.

**State Law reference**— Designation by municipalities of smoking areas in public places, RSMo. § 191.767.

**Cross reference**— Administration, Ch. 2; fire prevention and protection, Ch. 8.

Sec. 9-21. - City-owned buildings and property.

A person shall not smoke in any building or other enclosed area owned or used by the city, including, without limitation, the following areas:

- (1) City Hall, Maintenance Garage and any other building owned or used by the city, except within certain areas designated by the city as smoking areas pursuant to section 9-2 below.
- (2) Any motor vehicle or motorized equipment with an enclosed cab.

(Ord. No. 536, § 1, 5-17-94)

Sec. 9-22. - Defined.

For purposes of this article, *smoking* shall mean the possession of burning tobacco in the form of a cigarette, cigar, pipe or other smoking equipment.

(Ord. No. 536, § 2, 5-17-94)

Sec. 9-23. - Open areas.

Employees working in open areas, such as in the maintenance yard, in parks, or on the streets may smoke in these areas.

(Ord. No. 536, § 3, 5-17-94)

Sec. 9-24. - Posting of signs.

The department of public works shall be charged with the responsibility for conspicuously posting "No Smoking" signs in every building and vehicle owned or used by the city and to post the areas designated for smoking.

(Ord. No. 536, § 4, 5-17-94)

Sec. 9-25. - Authority of fire marshal.

Nothing in this article shall be construed to the limit the authority of the fire marshal to designate locations in which smoking may be prohibited nor to repeal any order by said fire marshal prohibiting smoking in any location.

(Ord. No. 536, § 5, 5-17-94)

## Chapter 9.5 - HOUSING<sup>[1]</sup>

*Footnotes:*

--- (1) ---

**Cross reference**— *Administration, Ch. 2; buildings and building regulations, Ch. 6; housing code, § 6-76 et seq.*

## ARTICLE I. - IN GENERAL

Secs. 9.5-1—9.5-20. - Reserved.

## ARTICLE II. - FAIR HOUSING CODE<sup>[2]</sup>

*Footnotes:*

--- (2) ---

**Editor's note**—*Ord. No. 407, adopted Oct. 4, 1988, did not specifically amend this Code, hence inclusion of §§ 1—10 as Art. II, §§ 9.5-21—9.5-30 was at the discretion of the editor.*

Sec. 9.5-21. - Discrimination in the sale or rental of housing—Prohibited acts.

It shall be unlawful for any owner, real estate broker, salesperson, or lending institution, either by themselves or through their officers, employees, agents or sales representatives or for any other person:

- (1) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of race, sex, color, religion, national origin, age, ancestry handicap or marital status;
- (2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith because of race, sex, color, religion, national origin, age, ancestry, handicap, or marital status;
- (3)

To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement with respect to the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, sex, color, religion, national origin, age, ancestry, handicap, or marital status, or an intention to make any such preference, limitation, or discrimination;

- (4) To present to any person because of race, sex, color, religion, national origin, age, ancestry, handicap or marital status, that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact so available;
- (5) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, sex, color, religion, national origin, age, ancestry, handicap, or marital status.

(Ord. No. 407, § 1, 10-4-88)

Sec. 9.5-22. - Same—Exemptions.

Nothing in this code shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, sex, color, national origin, age, ancestry, handicap, or marital status. Nor shall anything in this code prohibit a private club not in fact open to the public which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(Ord. No. 407, § 2, 10-4-88)

Sec. 9.5-23. - Discrimination in the financing of housing.

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part in the making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him/her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of race, sex, color, religion, national origin, age, ancestry, handicap, or marital status of such person or of any person associated with him/her in connection with such loan or other financial assistance, or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given.

(Ord. No. 407, § 3, 10-4-88)

Sec. 9.5-24. - Discrimination in the provision of brokerage services.

It shall be unlawful for any person to deny any person access to or membership or participation in any multiple-listing service, real estate broker's organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him/her in the terms or

conditions of such access, membership, or participation, on account of race, sex, color, religion, national origin, age, ancestry, handicap, or marital status.

(Ord. No. 407, § 4, 10-4-88)

Sec. 9.5-25. - Unlawful solicitation in the sale or rental of dwellings.

- (a) It shall be unlawful for any real estate corporation, partnership, firm or association, or for any person acting as a real estate agent, salesperson, or broker, or for any agent, employee, or person acting on their behalf to solicit or induce or attempt to solicit or induce in any manner or by any means, including but not limited to the use of the mails, telegraph, letters, flyers, leaflets, circular, telephone, door-to-door solicitation or any other type of written or oral personal contact, any person having any interest in a dwelling, including occupant, to sell, lease, rent, move from or otherwise dispose of or change his interest in said dwelling.
- (b) Section 9.5-25(a) shall not be applicable to:
  - (1) Any solicitation or attempted solicitation to sell, lease, rent, move from, or otherwise dispose of or change interest in any vacant land;
  - (2) Solicitation or attempted solicitation to sell, lease, rent, move from or otherwise dispose of or change interest in any specific listed dwelling, or lot number said solicitation or attempted solicitation of a specific dwelling or lot number being publicly broadcast on television or radio or placed in a newspaper or magazine of general distribution;
  - (3) Any solicitation or attempted solicitation to sell, lease, rent, move from or otherwise dispose of or change interest in any dwelling or other property for the purpose of acquiring tracts of real property for the purpose of residential, commercial, industrial or recreational development;
  - (4) Any solicitation or attempted solicitation to sell, lease, rent, move from or otherwise dispose of or change interest in any dwelling or other property whose owner or occupant has listed or advertised such property for sale or rent.
- (c) The complaint procedures set forth in sections 9.5-25 and 9.5-27 [9.5-27 and 9.5-29] shall not be applicable to enforcement of the provisions of section 9.5-25(a). Any persons who claim to have been injured under section 9.5-25(a) shall file a written complaint directly with the city council and city attorney.

(Ord. No. 407, § 5, 10-4-88)

Sec. 9.5-26. - Unlawful steering in the sale or rental of dwellings.

- (a) It shall be unlawful for any real estate corporation, partnership, firm salesperson or broker, or for any agent, employee or person acting in their behalf to:
  - (1) Influence or attempt to influence any person who represents himself to be prospective purchaser, occupant, or tenant of a dwelling to refrain from purchasing or renting a dwelling by referring to race, sex, color, religion, national origin, age, ancestry, handicap or marital status of occupants or prospective occupants of other dwellings in the neighborhood;
  - (2) Discriminate against any person who represents himself to be a prospective seller, purchaser, occupant, landlord or tenant of a dwelling by any influence, suggestion, act or failure to act, or accord any differential treatment among such persons, in connection with the sale or rental of a dwelling or in the furnishing of information, services, or facilities relative thereto, because of race, sex, color, religion, national origin, age, ancestry, handicap or marital status of any person.
- (b)

The complaint procedure set forth in sections 9.5-25 and 9.5-27 [9.5-27 and 9.5-29] shall not be applicable to enforcement of the provisions of section 9.5-26(a). Any persons who claim to have been injured under section 9.5-26(a) shall file a written complaint directly with the city council and city attorney.

(Ord. No. 407, § 6, 10-4-88)

Sec. 9.5-27. - Commission on human rights—Created; duties.

There is hereby created a commission on human rights whose duty it will be to receive and investigate any and all written complaints charging discrimination, seek conciliation of such complaints, hold hearings, make findings of fact and issue recommendations to the city council and the city attorney. The city council shall review and make recommendations including the decision to prosecute or to instruct the city attorney to file a civil suit to enjoin the violation or to take other appropriate action. The commission shall administer this code in a manner affirmatively to further policies of this code and to prevent or eliminate discriminatory housing practices. The commission shall cooperate with and render technical assistance to federal, state, local and other public or private agencies, organizations and institutions which are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

(Ord. No. 407, § 7, 10-4-88)

Sec. 9.5-28. - Same—Appointments; terms; membership.

The commission on human rights shall consist of three (3) members who shall be appointed by the mayor with the approval of a majority of the city council. Each member shall serve for three (3) years, provided, however, that the first appointment shall be for one (1), two (2), and three (3) years for each member respectively. The members shall be residents of the City of Black Jack, registered voters in the said city and at least twenty-one (21) years of age. The chairman shall be elected by the members of the commission.

(Ord. No. 407, § 8, 10-4-88)

Sec. 9.5-29. - Complaint process.

Any persons who claim to have been injured or who will be injured by a discriminatory housing practice may file a complaint with the human rights commission. The complaint shall be filed within one hundred eighty (180) days after the alleged discriminatory housing practice occurred. For purposes of this section, all days of violation with respect to one (1) dwelling shall be taken to mean one (1) occurrence. Complaints shall be in writing and shall state the facts upon which the allegations of the discriminatory practice are based. Upon receipt of such complaint, copy shall be furnished to the person or persons who allegedly committed or are about to commit the alleged discriminatory housing practice.

(Ord. No. 407, § 9, 10-4-88)

Sec. 9.5-30. - Penalty.

Any person, firm or corporation violating any of the provisions of this article shall be punished by a fine not to exceed one hundred dollars (\$100.00) or by imprisonment not to exceed ninety (90) days or by both fine and imprisonment. Each day a violation exists it shall be considered a separate offense.

(Ord. No. 407, § 10, 10-4-88)

## Chapter 10 - LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS<sup>[1]</sup>

Footnotes:

— (1) —

**Cross reference**— *Definitions and rules of construction generally, § 1-2; city clerk to procure annual property assessment, § 2-88; alarm systems, Ch. 3; alcoholic beverages, Ch. 4; registration of dogs and cats, § 5-29; affixing of advertisements to public places, § 11-25; dissemination of false advertising, § 11-26; peddlers and solicitors, Ch. 15; permit for collection, etc., of solid waste, § 18-26 et seq.; vehicle registration, licenses and permits, § 20-456 et seq.*

### ARTICLE I. - IN GENERAL

Sec. 10-1. - County weights and measures ordinance adopted.

- (a) Chapter 618, Sections 618.010 through 618.780, inclusive, of the Revised Ordinances of St. Louis County, Missouri, as may be amended, pertaining to weights and measures, a copy of which is attached to Ord. No. 627, and made a part hereof as if fully set forth herein, is hereby adopted as the weights and measures ordinance of the City of Black Jack.
- (b) Any person violating the terms of this Ordinance shall, upon conviction be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) and each day such violation shall continue shall be deemed to be a separate offense.

(Ord. No. 116, §§ 1, 2, 3-5-74; Ord. No. 627, §§ 1, 2, 12-2-97; Ord. No. 896, § 1, 12-5-06)

Secs. 10-2—10-20. - Reserved.

### ARTICLE II. - GARAGE SALES, RUMMAGE SALES, ETC.

Sec. 10-21. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Garage sale, lawn sale, attic sale, rummage sale, basement sale, moving sale or flea market sale* means any sale of tangible personal property, advertised by any means whereby the public at large is or can be made aware of such sale which is not otherwise regulated by any other provision of the ordinances of the city, or which is not made, held or conducted by any person who has been issued a merchants, business or occupational license at an address at which the sale is to be conducted.

*Goods* means and includes any personal property, warehouse merchandise or other property capable of being the object of a sale regulated hereunder.

(Ord. No. 218, § 1, 10-2-79)

Sec. 10-22. - Exemptions.

The provisions of this article shall not apply to or effect the following persons or sales:

- (1) Persons selling goods pursuant to an order of process of a court of competent jurisdiction.
- (2) Persons acting in accordance with their powers and duties as public officials.
- (3) Any person selling or advertising for sale an item or items of personal property which are specifically named or described in the advertisement and which separate items do not exceed ten (10) in number.
- (4)

Any publisher of a newspaper, magazine or other publication or other communication media who publishes or broadcasts in good faith without knowledge that the provisions of city ordinances have not been complied with.

- (5) Any sale regulated under any other ordinance of the city.
- (6) Any sale conducted by any licensed merchant or mercantile or other business establishment from or at a place of business wherein such sale would be permitted by the zoning regulations of the city, or under the protection of the present non-conforming section thereof, or any other sale conducted by a manufacturer or dealer, provided such sale would be conducted from properly zoned premises and would not otherwise be prohibited.
- (7) Any bona fide charitable, eleemosynary, educational, cultural or governmental institution or organization; provided, however, that the burden of establishing the exemption under this paragraph shall be on the organization or institution claiming such exemption; however, such institutions are required to secure a permit as provided for in section 10-33 of this Code.

(Ord. No. 218, § 5, 10-2-79)

#### Sec. 10-23. - Permit.

- (a) A permit issued by the city clerk shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised, or held out by means, to be one of the types of sales enumerated in section 10-21 of this Code. No person shall conduct, advertise or promote any sale subject to the provisions of this article without a permit issued pursuant hereto.
- (b) No permit shall be issued authorizing any such sale to be conducted for a period longer than two (2) days. No person shall be issued more than two (2) permits within any twelve-month period for any one location. No permit shall be issued authorizing any such sale on Sundays and legal holidays.
- (c) Any applications for a permit for any of the sales regulated hereunder shall be made at the office of the city clerk on a form to be provided therefor and shall contain the following information:
  - (1) Name of the person conducting said sale;
  - (2) The location at which said sale is to be conducted;
  - (3) The number of days which said sale is to be conducted within the limits herein prescribed.
- (d) When a permit is issued, the city clerk shall notify the city marshal of the time, date and location of the sale and the city marshal shall determine whether any parking or traffic regulations are required. No charge is to be assessed for a permit.

(Ord. No. 218, §§ 2, 3 4(A), (B), 10-2-79)

#### Sec. 10-24. - Bringing articles onto property to sell.

No person shall purchase or bring upon his property articles or items specifically for a garage sale; this section shall not prohibit two (2) or more city residents from holding a joint garage sale at one home.

#### Sec. 10-25. - Location restrictions.

There shall be no display or sale of any property sold under a permit issued pursuant to this article in the front yard of the premises, or on any street, sidewalk or right-of-way.

(Ord. No. 218, § 4(D), 10-2-79)

#### Sec. 10-26. - Signs.

The permit holder may install one (1) sign advertising the sale on the residential lot upon which the sale is to be held. An additional sign may be displayed advertising the sale, however permission must be secured from the owner of the property prior to erecting a sign advertising the sale. The signs authorized by this section shall not be larger than two (2) feet by three (3) feet. They shall not be installed sooner than one (1) day prior to the date of the sale, and shall be removed at the end of the day upon which such sale is held. In no case shall the signs be displayed for a period of greater than forty-eight (48) hours.

(Ord. No. 218, § (4)E, 10-2-79; Ord. No. 481, § 2, 12-3-91)

**Cross reference**— Signs generally, Ch. 17.5.

Secs. 10-27—10-40. - Reserved.

#### ARTICLE III. - EXCHANGE TELEPHONE SERVICES

Sec. 10-41. - Report of gross receipts.

Every person engaged in the business of furnishing exchange telephone service in the city shall file with the city clerk on or before August 15 of each year, a sworn statement of the gross receipts derived by such person from the furnishing of such service during the first six (6) months of each calendar year, and on or before February 15 of each year, a similar statement of gross receipts for the last six (6) months of the preceding calendar year.

(Ord. No. 5, § 2, 8-11-70; Ord. No. 194, § 1, 10-3-76)

Sec. 10-42. - Removal, etc., of wires.

Every person engaged in the business of furnishing telephone exchange service in the city, on the request of any person, shall remove or raise or lower its wires temporarily to permit the moving of houses or other bulky structures. The expense of such temporary removal, raising or lowering of wires shall be paid by the party or parties requesting such raising or lowering of wires, and payment in advance may be required. No less than forty-eight (48) hours' advance notice shall be given to arrange for such temporary wire changes.

(Ord. No. 5, § 5, 8-11-70)

Sec. 10-43. - Right to trim trees.

The right is hereby granted to all persons engaged in the business of furnishing telephone exchange service in the city to trim trees, brush, or hedges upon and overhanging the streets, alleys, sidewalks, and public places of the city, so as to prevent such foliage from coming in contact with telephone wires and cables; all of said trimming shall be done under the supervision and direction of the city council or of any city official to whom said duties have been or may be delegated.

(Ord. No. 5, § 6, 8-1-70)

Secs. 10-44—10-60. - Reserved.

#### ARTICLE IV. - OTHER PUBLIC UTILITIES

Sec. 10-61. - Report of gross receipts.

(a) Every person now or hereafter engaged in the business of supplying electricity, gas or water service for compensation for any purpose in the city, and every manufacturing corporation now or hereafter engaged in the manufacture of gas or electricity for compensation for any purpose in the city, shall

file with the city clerk on the fifteenth day of July and January of each year a sworn statement of the gross receipts from such business for the six (6) calendar months preceding the filing of such statement. The clerk, or his duly authorized agent or deputy, shall investigate the correctness and accuracy of the statement required and for that purpose shall have access at all reasonable times to the books, documents, papers and records of any person making such statement in order to ascertain the accuracy thereof.

- (b) As used in subsection (a), the term "gross receipts" means the aggregate amount of all sales and charges of the commodities or services described herein made by a public utility in the city during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

(Ord. No. 4, § 3, 7, 8-11-70; Ord. No. 545, § 1, 9-20-94)

Sec. 10-62. - License tax on gross receipts.

- (a) *Definitions.* The following terms wherever used or referred to in this section shall have these respective meanings unless a different meaning clearly appears from the context:

*City clerk.* The City Clerk of the City of Black Jack, Missouri, or any other duly authorized financial officer of the city.

*Gross receipts.* The aggregate amount of all sales and charges of the goods or services described in subsection (b) below during any period less discounts, credits, refunds, sales taxes and uncollectible accounts actually charged off during the period.

*Person.* Every individual, firm, corporation, partnership, joint venture, business trust, receiver and any other person, group, combination or association of any of them who now or hereafter shall be engaged in any of the business described in subsection (b) below.

*Telephone service.* All "telecommunications services," and the services ordinarily and popularly ascribed to such term, including without limitation, the transmission of message and conversations through use of local, toll and wide area telephone service; private line services; land line services; cellular or mobile communication services; maritime and air-to-ground telephone service. Telephone service includes the transmission of information over telephone lines and other telephonic media for facsimile transfers.

- (b) *License tax.* Every person who now or hereafter shall be engaged in the business of supplying or furnishing electricity, electric power, electrical service, gas, gas service, water, water service and telephone service shall pay to the city an annual license or occupational tax in an amount equal to three (3) percent of the gross receipts derived from business with non-residential customers in the city and three (3) percent of the gross receipts derived from business with residential customers in the city.
- (c) *Monthly verified returns; due date.* Every person shall, on forms designed and furnished by the city, make and file a verified return with the city clerk covering the prior month, on or before the twentieth day following the close of each such month and at that time shall pay the tax for the period covered by the return; the first return shall be due July 1, 2009, for the period June 1 to June 30, 2009.
- (d) *Examination of records by city clerk, etc.* Should the city clerk not be satisfied with the accuracy of any return filed hereunder or any statement required in support thereof, any such person shall submit its books and records to examination by the duly authorized representatives of the city. Should it be

ascertained that the gross receipts herein taxed of any such person during the specified period is greater than the amount reported, such person, notwithstanding its return, shall pay the tax hereunder on its gross receipts as ascertained by the city clerk.

- (e) *City clerk to establish rules and regulations.* The city clerk shall prescribe all incidental rules and regulations for the enforcement of this section.
- (f) *Failure to pay tax.* In the event that any person hereunder fails to pay the tax or to discharge any liability hereunder, suit may be filed in any court of competent jurisdiction to enforce the payment of the tax and liability.
- (g) *Penalty for violation.* Any person violating any of the provisions of this section or any employee, agent or other individual taking part in, joining or aiding in a violation of any provision of this section may be prosecuted as provided by law for the violation of ordinances of the city and, upon conviction thereof, shall be subject to a fine of up to five hundred dollars (\$500.00) and up to thirty (30) days in jail or to both a fine and jail. Each day a violation continues shall constitute a separate offense.
- (h) *Tax to be in lieu of other occupation taxes.* The tax required to be paid under subsection (b) shall be in lieu of any other occupation tax required of any person engaged in any of the businesses described in subsection (b). Nothing contained in this section shall be construed to exempt any person to which this section is applicable from payment to the city of any taxes, other than occupation license taxes, levied by the city upon such person or the real or personal property of such person.

(Ord. No. 960, §§ 1—8, 2-17-09; Ord. No. 1023, § 1, 9-20-11)

**Editor's note—** Ordinance No. 1023, adopted September 20, 2011, provides: "Ordinance No. 960... is hereby ratified and reaffirmed as being in full force and effect and the City shall continue to collect its License Tax at the rate and in accordance with the provisions of that ordinance."

Secs. 10-63—10-71. - Reserved.

#### ARTICLE V. - MECHANICAL AMUSEMENT AND DISPENSING DEVICES

Sec. 10-72. - Definitions.

As used in this article, unless the context otherwise indicates:

*License* shall mean any license required to be secured under this article.

*License year* shall mean the year beginning July 1, or in the case of a new mechanical amusement device or mechanical dispensing device, the date of issuance of such license, and ending on the following June 30 of each year.

*Mechanical amusement device* shall mean any machine or device which, upon the insertion of a coin, slug, token, plate, disc or paper currency of any denomination, may be operated by the public generally by manipulating special equipment whereby a score is established, the object of which is to secure a special number or numbers or a high total score, whether a prize is offered or not, when the element of skill in such manipulation predominates.

*Mechanical dispensing device* shall mean any machine or device which, upon the insertion of a coin, slug, token, plate, disc or paper currency of any denomination by the general public, shall dispense a product whether liquid or solid from said device.

*Person, firm, corporation or association* as used herein shall include any person, firm, corporation or association which owns any such machine; the person, firm, corporation or association in whose place of business (whether inside or outside the premises) any such machine is placed for use by the public; and the person, firm, corporation or association having control over such machine; however, the payment of such fee by any person, firm, corporation or association enumerated herein shall be deemed a compliance with this article provided all other applicable requirements of this article are met.

(Ord. No. 280, § 1, 2-1-83; Ord. No. 708, § 2, 3-6-01; Ord. No. 858, § 1, 5-3-05)

**Cross reference**— Definitions and rules of construction, § 1-2.

Sec. 10-73. - License required.

Any person, firm, corporation or association displaying for public patronage or keeping for operation any mechanical amusement device or mechanical dispensing device as herein defined by section 10-72 shall be required to obtain a license from the city for each such device. Application for such license shall be made to the city clerk upon a form to be supplied by the city clerk for that purpose.

(Ord. No. 280, § 2, 2-1-83; Ord. No. 708, § 3, 3-6-01)

Sec. 10-74. - License application—Contents.

The application for a license required by this article shall contain the following information:

- (1) Name and address of the applicant.
- (2) Place where the machine or device is to be displayed or operated and the business conducted at that place.
- (3) Description of the machine to be covered by the license, mechanical features, name of manufacturer, serial number.
- (4) Copy of valid city business license, if applicable.

No license shall be issued to any applicant unless that applicant is over twenty-one (21) years of age and a citizen of the United States.

(Ord. No. 280, § 3, 2-1-83; Ord. No. 1042, §§ 1, 2, 10-16-12)

Sec. 10-75. - Same—Administrative review.

- (a) Application for a license required by this article shall be made out in duplicate, one copy being referred to the city clerk and the other copy to the director of public works or his/her designee.
  - (1) The director of public works or his/her designee shall investigate the location wherein it is proposed to operate such machine and either approve or disapprove the application.
  - (2) The director of public works or his/her designee shall inspect all wiring connections to the machine, determine if the same complies with the Electrical Code of the City of Black Jack, and shall either approve or disapprove the application.
- (b) No license shall be issued to any applicant unless approved by the director of public works or his/her designee.

(Ord. No. 280, § 4, 2-1-83; Ord. No. 1042, § 3, 10-16-12)

Sec. 10-76. - License fee.

(a) *Annual fees.* Every applicant, before being granted a license, shall pay the following annual license fee for the privilege of operating or maintaining for operation each mechanical amusement device and mechanical dispensing device as defined in Section 10-72 herein:

- (1) Mechanical amusement devices, per machine .....\$25.00
- (2) Mechanical dispensing devices, per machine .....\$25.00

Each license shall expire at the end of the license year.

(b) *Prorated fees.*

- (1) The applicant for a license for a new mechanical amusement device or mechanical dispensing device shall be required to pay the full annual license fee if at the time of the application for a license less than three (3) months of the current license year have expired;
- (2) If three (3) months or more but less than six (6) months have expired, the applicant shall be required to pay three-fourths ( $\frac{3}{4}$ ) of the current annual license fee;
- (3) If six (6) months or more but less than nine (9) months have expired, the applicant shall be required to pay one-half ( $\frac{1}{2}$ ) of the current annual license fee;
- (4) If nine (9) months or more have expired, the applicant shall be required to pay one-fourth ( $\frac{1}{4}$ ) of the current annual license fee;
- (5) Provided, however, that no prorated license fee shall be less than ten dollars (\$10.00).

(Ord. No. 280, § 5, 2-1-83; Ord. No. 708, § 4, 3-6-01; Ord. No. 858, § 2, 5-3-05)

Sec. 10-77. - Posting of license; transfer; relocation.

- (a) The license obtained for each mechanical amusement device or mechanical dispensing device as herein provided shall be posted permanently and conspicuously on the front surface of such device.
- (b) Such license may be transferred from one (1) machine or device to another similar machine upon application to the city clerk to such effect and the giving of a description and the serial number of the new machine or device. Not more than one (1) machine shall be operated under one (1) license, and the applicant or licensee shall be required to secure a license for each machine displayed or operated by him, and no place of business shall have more than eight (8) machines.
- (c) If the licensee shall move his place of business to another location within the city, the license may be transferred to such new location upon the application to the city clerk, giving the street and number of the new location. The new location shall be approved by the director of public works or his/her designee in the same manner as provided in Section 10-75.
- (d) A license shall not be transferable from person to person nor place to place, and shall be usable only at the place and by the person designated in the license.

(Ord. No. 280, § 6, 2-1-83; Ord. No. 708, § 5, 3-6-01; Ord. No. 1042, § 4, 10-16-12; Ord. No. 1071, § 1, 2-17-15)

Sec. 10-78. - Revocation of license.

Every license issued under this article is subject to the right, which is hereby expressly reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of a mechanical amusement device contrary to the provisions of this article, the ordinances of the city, or the law of the state. A license may be revoked by the city council after written notice to the licensee, which notice shall specify the ordinance or law violations with which the licensee is charged, if after a hearing the licensee is found to be guilty of such violations. Ten (10) days' notice of the hearing shall be given the licensee. At such hearing the licensee and his attorney may present and submit evidence of witnesses in his defense.

(Ord. No. 280, § 7, 2-1-83)

Sec. 10-79. - Penalty for violation of article.

Any person, firm, corporation or association violating any of the provisions of this article, in addition to the revocation of his or its license, shall be liable to a fine or penalty of not more than one thousand dollars (\$1,000.00) for each offense.

(Ord. No. 280, § 8, 2-1-83; Ord. No. 896, § 1, 12-5-06)

Secs. 10-80—10-94. - Reserved.

## ARTICLE VI. - MASSAGE BUSINESS

Sec. 10-95. - Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, unless the context clearly indicates otherwise:]

- (a) *Applicant*. Any person who applies for a permit as required by this article. If the applicant is a partnership each partner shall be deemed an applicant. If the applicant is a corporation or other firm, association, or company, the owner of a majority of such entity shall be deemed an applicant.
- (b) *Massage*. Any method of pressure on or friction against or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliances with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, unguents or other similar preparations commonly used in this practice.
- (c) *Massage business*. Any establishment wherein massage is given, engaged in or carried on, or permitted to be given, engaged in, or carried on, for any form of consideration.
- (d) *Masseur or masseuse*. Any individual who performs a massage for a massage business whether as an employee, agent or independent contractor.
- (e) *Person*. Any individual, partnership, firm, association, company, corporation, or combination of individuals of whatever form or character.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-96. - License required; application.

- (a) It shall be unlawful for any person to establish, maintain or conduct any massage business within the city unless such person has made application for and secured a license to do so from the city.
- (b) Any person desiring a license pursuant to this article shall submit an application to the director of public works along with a nonrefundable application fee of one hundred fifty dollars (\$150.00), which application shall contain the following:
  - (1) The name and residential address of the applicant for the previous five (5) years and length of time such person has resided at each stated location.
  - (2) The street address of the premises for which the license is desired.
  - (3) The name of the owner of the premises upon which the place of business is to be located.
  - (4) Two (2) current portrait photographs (taken within six (6) months of application) at least two (2) inches by two (2) inches of each applicant.
  - (5)

A statement that the applicant is a citizen of the United States and not less than twenty-one (21) years of age, and that he/she has not within five (5) years immediately preceding the application been convicted of a felony or any crime or offense involving moral turpitude.

- (6) A list of all convictions of the applicant, masseur and masseuse, of violation of criminal statutes or ordinances other than minor traffic violations and lawful pardons.
- (7) The qualifications, including documentation evidencing any course, study or experience of applicant in performing massages and to operate and conduct the massage business.
- (8) A list of masseurs and masseuses who will work at the massage business including the information specified in section 10-100 of this chapter.
- (9) Businesses, occupations or employments of the applicant for the three (3) years immediately preceding the date of the application.
- (10) If the applicant is a corporation, a copy of the certificate of incorporation as issued by the Secretary of State of the State of Missouri, or other state of incorporation, a copy of the articles of incorporation, and a certificate of good standing.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-97. - Petition required.

- (a) No license for a massage business shall be issued unless a petition approving such issuance shall be filed with the application for license and which petition shall be signed by two-thirds (2/3) of the assessed taxpaying citizens owning property and also two-thirds (2/3) of the persons occupying, owning or conducting any business within a distance of two hundred (200) feet of the applicant's place of business in all directions.
- (b) No license for a massage business shall be issued where the place of business is within two hundred (200) feet of any property used for a school, church, public playground or building regularly used as a place of religious worship unless the applicant for the license shall first obtain the consent in writing of the majority of the board of directors, managing board or trustees of the school, church, public playground or place of worship; however, when a school, church, public playground or place of religious worship shall hereafter be established, or was established subsequent to the issuance of such a license, within two hundred (200) feet of any massage business, the license shall not be denied, revoked or fail to be renewed for lack of consent in writing as herein provided.
- (c) This section shall not apply to the renewal of a license.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-98. - Application review.

- (a) The director of public works in his/her review of the application shall perform the following investigations and inspections:
  - (1) Verification that the information on the application is true and not misleading.
  - (2) Cause an investigation of the applicants and each masseur and masseuse with the police department serving the city.
  - (3) Inspect the proposed premises where the massage business will be located to determine any violation of section 10-105 of this article or any other applicable statutes, ordinances or regulations.
- (b) The license shall only be issued if it is found that:
  - (1) All information on the application is true and not misleading;

- (2) The applicant(s) and each masseur and masseuse shall be of good moral character;
- (3) The operation of the massage business complies with or would comply with all applicable statutes and ordinances, including without limitation, section 10-105, the city's building code, zoning ordinances and health regulations.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-99. - Term; fee.

The term of any license issued under this article shall be for one (1) year. The annual fee therefor shall be the sum of one hundred dollars (\$100.00).

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-100. - Masseur/masseuse license.

- (a) No person shall be employed as a masseur or masseuse in a massage business who is under the age of eighteen (18) years or who has been convicted of any violation of a statute or ordinance involving moral turpitude.
- (b) Prior to employing any person as a masseur or masseuse an application for a masseur/masseuse license shall be made to the director of public works, and shall set forth:
  - (1) The street address of the premises where applicant proposes to perform services;
  - (2) The name and address of the holder of the premises license for such premises;
  - (3) The name and address of the proposed supervisor of applicant, if different from (2) above;
  - (4) Written proof of training and experience in the field of massage;
  - (5) Applicant will furnish a list of all convictions of violations of criminal statutes or ordinances other than minor traffic violations or lawful pardons;
  - (6) Applicant will furnish two (2) current photographs (taken within six (6) month of application) at least two (2) inches by two (2) inches;
  - (7) Written proof that the masseur or masseuse is eighteen (18) years or older.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-101. - Masseur/masseuse license issuance or denial.

- (a) Upon the filing of the application for a masseur/masseuse license under the provisions of this article, the director of public works shall verify that the information on the application is true and not misleading and cause an investigation of the applicant by the police department serving the city.
- (b) A masseur/masseuse license shall not be issued if the application contains any false or misleading statements or if it is found that the applicant is not of good moral character.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-102. - Masseur/masseuse license fee; term; transferability.

The initial fee for a masseur/masseuse license shall be the sum of one hundred dollars (\$100.00). The term of any masseur/masseuse license shall be for one (1) year. The renewal fee for a masseur/masseuse license shall be the sum of fifty dollars (\$50.00). No masseur/masseuse license shall be transferable.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-103. - Renewal of massage business license.

- (a) All licenses for a massage business shall be for a period of one (1) year.

- (b) Applications for renewal of massage business license shall be obtained from the director of public works and shall contain the same information as required for an original massage license.
- (c) Applications for renewal of massage business license shall be accompanied by a fee of one hundred dollars (\$100.00), no part of which shall be refundable.
- (d) Applications for renewal of massage business license shall be submitted to the director of public works at least thirty (30) days prior to the date of expiration of said license but in no event more than sixty (60) days prior to the expiration of said license, and a determination on said renewal application shall be made within thirty (30) days of the receipt of the application.
- (e) The director of public works shall perform the same review as is required for the initial license pursuant to section 10-98 of this article and shall only renew such license if the applicant meets the requirements specified therein.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-104. - Revocation of license.

- (a) The director of public works may revoke any license issued hereunder for any of the following reasons:
  - (1) If a licensee has obtained a license by giving false information in the application therefor.
  - (2) If the licensee has violated any of the provisions herein.
  - (3) If the licensee has become ineligible to obtain a license hereunder.
  - (4) For the nonpayment of any license fee payable herein.
  - (5) For the employment by a licensee of any persons not licensed as provided herein.
  - (6) For the conviction of a felony or other crime or offense involving moral turpitude.
- (b) Any person who shall have been issued a license provided for in this chapter and whose license shall have been revoked as herein provided shall not be eligible to apply for a license for a period of one (1) year from and after the date of revocation, and no location or premises wherein a premise license has been revoked shall be used as a massage business for six (6) months following the date of revocation.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-105. - Compliance with ordinances.

The licensee in the operation of a massage business licensed hereunder or in the performance of services as a licensed masseur or masseuse as provided by this article shall at all times comply with all of the sanitary and health requirements, rules and regulations of the city and of all other ordinances of the city.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-106. - Availability of premises to police.

All places of business of licensees shall be open for inspection by the police department serving the city at all times during operating hours.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-107. - Exemption from obtaining business license.

The provisions of this article shall not apply to hospitals, nursing homes, persons holding an unrevoked certificate or entitlement to practice the healing arts under the laws of the State of Missouri, licensed barbers or beauticians (but only to the extent the barbers or beauticians are massaging a person's scalp for purposes of cleaning such person's hair) or athletic trainers associated with any school or sports team.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-108. - Hours of operations.

Massage businesses shall not be open nor conduct operations, between 10:00 p.m. and 6:00 a.m.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-109. - Alcoholic beverages.

Possession or consumption of alcoholic beverages on the premises of any massage business is prohibited.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-110. - Sexual conduct for compensation or other consideration prohibited.

*Sexual conduct* as used herein shall mean acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, or, if such person is a female, breast. An owner, masseur, masseuse or employee of a massage business shall not engage in or offer or agree to engage in sexual conduct in return for compensation or other consideration.

(Ord. No. 526, § 1, 2-15-94)

Sec. 10-111. - Penalty.

Any person violating the provisions of this article shall, upon conviction, be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not exceeding three (3) months, or both.

(Ord. No. 526, § 1, 2-15-94; Ord. No. 896, § 1, 12-5-06)

Sec. 10-112. - Transferability.

No license issued pursuant to these provisions may be assigned or transferred by the holder thereof, and no person shall be able to operate a massage business or act as a masseur or masseuse therein except a person who shall have been issued a valid license hereunder.

(Ord. No. 526, § 1, 2-15-94)

Secs. 10-113—10-139. - Reserved.

ARTICLE VII. - YARD BY-PRODUCT FACILITIES

Sec. 10-140. - Definitions.

For the purpose of this article, the following terms, phrases, words and their derivations shall have the meaning given herein:

*Director* means the director of public works or his/her designee.

*Yard by-product* means source separated tree trimmings (excluding leaves not attached to branches and limbs), branches and limbs.

*Yard by-product facility* means a nonresidential premises which collects and/or accepts recovered yard by-product generated off-site for the purpose of chipping such yard by-product for mulch.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-141. - Purpose of this article.

The purpose of this article is to fully regulate all yard by-product facilities within the boundaries of the city and all owners and/or operators of yard by-product facilities shall strictly adhere to the requirements of this article. It is the intent of the city that such facilities be exempt from the provisions of subchapter T, sections 607.1005 through 607.1170 of the St. Louis County Revised Ordinances which pertain to yard by-product compost facilities.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-142. - Facilities to which this article applies.

This article shall apply to all areas of privately and municipally owned and/or operated yard by-product facilities within the jurisdiction of the city, including the existing facility owned and operated by the city at 12640 Old Jamestown Road which was operational prior to the passage of the St. Louis County Ordinance No. 17291, Chapter 607.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-143. - Designation and duties of the director.

The director is appointed to administer and implement the provisions of this article. Duties and responsibilities of the director shall include, but not be limited to:

- (a) Notifying the St. Louis County Department of Health Director of the city's adoption of regulations as strict as those stated in subchapter T, sections 607.1005 through 607.1170 of the St. Louis County Revised Ordinances that relate to the construction, operation and closure of a yard by-product facility, in order to retain full regulatory authority over privately and municipally owned and/or operated yard by-product facilities within the city's boundaries; and supplying the St. Louis County Department of Health Director with a copy of this article; and
- (b) Filing a statement with the St. Louis County Department of Health Director at least once per year registering each yard by-product facility regulated by the city. The statement shall contain the following information:
  - 1. Volume of yard by-product in cubic yards received by the facility during the previous year.
  - 2. Volume of end-use product produced.Such statement shall be filed by June 30 for each reporting year.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-144. - Yard by-product facility management.

The construction, operation and closure of a yard by-product facility shall be consistent with the provisions of this article. Duties and responsibilities of the director for yard by-product facility management shall include, but not be limited to:

- (a) Developing, reviewing and/or approving a plan for the construction and operation of a yard by-product facility which includes:
  - 1. A description of the type of materials the yard by-product facility will accept.
  - 2. The maximum storage capacity of material which will allow for proper management of the material.
  - 3. The technology utilized to process and store the materials.
  - 4. Drawings detailing the operation of the yard by-product facility.
  - 5. Location of the nearest available water source.
  - 6. A description of the construction of processing and storage bases. Bases shall be designed to shed stormwater and maintain integrity through continued use of heavy equipment.
- (b) Developing, reviewing and/or approving a closure plan for the facility consistent with subsection (a) above.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-145. - Standards for operation of a yard by-product facility.

Yard by-product facilities within the jurisdiction of the city shall adhere to the following requirements:

- (a) A facility may only be operated on a lot having a minimum area of five (5) acres, except that those facilities lawfully operating on lots having an area of less than five (5) acres as of the date of this article may continue to operate provided such facilities operate in compliance with all other requirements of this article.
- (b) A facility shall not accept material beyond that which can be properly managed.
- (c) Yard by-product shall be stored in a manner that will minimize the generation of odor and aesthetic problems, prevent spontaneous combustion and the harborage of vectors, and not create a public health nuisance.
- (d) Vector control programs shall be implemented to prevent or rectify vector problems.
- (e) Surface water courses and run-off shall be diverted to storm sewers, detention ponds or other approved collection methods.
- (f) Materials easily moved by wind shall be stored in such a manner so as to prevent such material from becoming airborne and scattered.
- (g) Fire extinguishers shall be provided and accessible.
- (h) Persons not authorized shall not be permitted to remove or scavenge in the materials deposited at the facility.
- (i) Compliance with handling, storage and disposal requirements for materials regulated under federal, state and/or local jurisdictions shall be met.
- (j) At least once per year, the operator of any yard by-product facility shall file a statement with the director containing the following information:
  - 1. Volume of yard by-product in cubic yards received by the facility during the previous year.
  - 2. Volume of end-use product produced.

Such statement shall be filed by June 30 for each reporting year.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-146. - Closure procedures for a yard by-product facility.

The director shall inspect the yard by-product areas when notified by an operator that a yard by-product facility area has been closed. The operator shall comply with the following:

- (a) Remove or cause to be removed all yard by-product from the facility site.
- (b) Restore the site by planting grass and trees, as determined necessary by the director.
- (c) Notify the director in writing at least ninety (90) days prior to the closure date (the date in which yard by-product will no longer be accepted).
- (d) At least thirty (30) days prior to the closure date, notify all regular suppliers and haulers of yard by-product and regular recipients/customers of mulch of its intent to close.
- (e) At least thirty (30) days prior to the closure date, post a legible sign with letters not less than three (3) inches in height which states that the yard by-product facility will be closed. The sign shall also state the final date any yard by-product will be received by the facility and the final date mulch may be obtained from the facility. The sign shall be located at all facility access gates and shall be visible to all customers entering the facility.
- (f) Initiate implementation of the closure plan within ninety (90) days of the closure date.
- (g) Not later than thirty (30) days following the closure date, post a sign, easily visible at all access gates leading into the facility. The text of such signs must read, in letters not less than three (3) inches high: "This facility is closed for all mulching activities and receipt of yard by-product. No dumping allowed. Violators are subject to fines and imprisonment in the St. Louis County jail." Signs must be maintained in legible condition until certification of completion of closure is issued for the facility by the director.
- (h) Unless otherwise authorized, within one hundred eighty (180) days of the closure date, final closure shall be completed.
- (i) A yard by-product facility shall be considered finally closed upon final inspection of the facility and certified closed by the director. If determined that closure has complied with this closure plan, the director shall, within thirty (30) days of the inspection date, issue written certification of such to the operator of the facility. This letter shall be sent as certified mail to the operator of the facility.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-147. - Compost facilities prohibited.

No facilities shall be permitted within the city which collect and/or accept any non-yard by-product leaves, grass clippings, yard or garden vegetation or Christmas trees for the purpose of controlled biological decomposition thereof.

(Ord. No. 700, § 1, 12-19-00)

Sec. 10-148. - Penalty.

Any person, firm or corporation violating any of the provisions of this article shall be punished by a fine or penalty not to exceed one thousand dollars (\$1,000.00) for each offense.

(Ord. No. 700, § 1, 12-19-00; Ord. No. 896, § 1, 12-5-06)

Secs. 10-149—10-159. - Reserved.

ARTICLE VIII. - BUSINESS LICENSES

Sec. 10-160. - Purpose.

The City of Black Jack shall collect a fee for business/merchant licenses from all persons having a place of business within the City of Black Jack as set out in this article.

(Ord. No. 718, § 1, 6-17-01; Ord. No. 730, § 1, 10-16-01)

Sec. 10-161. - Definitions.

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Business or occupation:* Any business, service, occupation, pursuit, profession or trade, including home occupations, or the keeping or maintaining of any institution, establishment, article, utility or commodity, except as may be otherwise provided by this article.

*Fee:* Any license fee required to be paid by any merchant, business or occupation as provided by this article.

*Home occupation:* Any business or occupation carried on by a member of a family residing on the premises of such place of business.

*License:* Any license required to be secured under this article.

*License year:* The year beginning July 1, or in the case of businesses newly established, at the beginning of doing business, and ending on the following June 30 of each year.

*Licensee:* Any person required to have a current license as well as one holding a license.

*Manufacturer:* Any person with a place of business in the city engaged in the production of some article, thing or object by skill or labor out of raw materials, or from matter that has already been subject to artificial forces or to which something has been added to change its natural condition.

*Merchant:* Any person with a place of business in the city who shall make or cause to be made any wholesale or retail sales or sales as a jobber of goods, wares and merchandise to any person, or who renders any services in connection with any such sale, at any store, stand or place in the city, whether such sales shall be accommodation sales, sales on consignment, or whether made from stock on hand or ordering goods from another source, or whether the subject of said sales be a different type of goods than those regularly manufactured, processed or sold by said dealer.

*Person:* Any natural individual, partnership, firm, corporation, limited liability company, association or other entity. As applied to partnerships, firms, limited liability companies or associations, the term includes the individual partners or members thereof, and the singular includes the plural.

*Service occupation:* Any person with a place of business in the city engaged in any business or occupation excluding merchants, manufacturers and warehouses and further excluding those businesses and occupations specifically exempted from local licensing by statutes of the State of Missouri, and shall be construed to include any person with a place of business in the city selling goods, wares and merchandise, any person with a place of business in the city dealing in or rendering services of any and all kinds to persons or property, any person with a place of business in the city renting or hiring property or facilities to others, and any person with a place of business in the city conducting activities for which an

admission is charged or consideration is received for attendance at performances, shows, spectacles or other events, or for participation in contests or games or for use of facilities or accommodations operated or maintained by any such person.

*Warehouse:* Any person with a place of business in the city engaged in the business of receiving and storing goods and merchandise.

(Ord. No. 718, § 1, 6-17-01; Ord. No. 730, § 2, 10-16-01)

Sec. 10-162. - License requirement.

No person having a place of business in the city shall engage in any business or occupation described in this article without first having obtained a license therefor from the city clerk and paying to the city clerk the designated fee. The license shall be for the license year.

(Ord. No. 718, § 1, 6-17-01; Ord. No. 730, § 3, 10-16-01)

Sec. 10-163. - Fee schedule.

The following fee schedule shall apply to all merchants, businesses and occupations, manufacturers and warehouses located within the city:

- (1) *Merchants.* The annual license fee per location for businesses defined as merchants in section 10-161 of this article shall be sixty dollars (\$60.00).
- (2) *Service occupations.* The annual license fee per location for businesses defined as service occupations in section 10-161 of this article shall be sixty dollars (\$60.00).
- (3) *Manufacturers/warehouses.* The annual license fee per location for businesses defined as manufacturer or warehouses in section 10-161 of this article shall be sixty dollars (\$60.00).
- (4) *Home businesses.* The annual license fee shall be thirty dollars (\$30.00).

(Ord. No. 718, § 1, 6-17-01)

Sec. 10-164. - Prorated fees.

- (a) The applicant for a license for a new place of business or to engage in a new occupation shall be required to pay the full annual license fee if at the time of the application for a license less than six (6) months of the current license year has expired;
- (b) The applicant for a license for a new place of business or to engage in a new occupation shall only be required to pay one-half (½) of the full annual license fee if at the time of application more than six (6) months of the current license year has expired.

(Ord. No. 718, § 1, 6-17-01; Ord. No. 862, § 1, 5-17-05)

Sec. 10-165. - License applications; issuance.

- (a) Applications for a license shall be made in writing on a form provided by the city and submitted to the city clerk. An application shall be made to renew any license at its expiration. All holders of licenses or permits shall be responsible for reporting changes in initial application data immediately as the same occur. The forms of licenses shall be prescribed and furnished by the city clerk or his/her designee. All licenses shall be issued and signed by the city clerk subject to the conditions of this Code.
- (b) The city clerk may refuse to issue or renew any license for any of the following reasons:
  - (1)

If the business or activity sought to be licensed is deemed to be one that would constitute a breach of the peace, a detriment, a menace to the health, safety or welfare of the public or a disturbance of the peace or comfort of the residents of the city if it were licensed; or

- (2) If the business or activity sought to be licensed would be conducted in violation of any law of the United States, statute of the state or ordinance of the city; or
- (3) Any other basis for revocation as set out herein.

In all cases whereby the city clerk refuses to issue or renew any license, the city clerk shall refer the matter to the city council for review prior to final rejection.

- (c) In all cases whereby the city clerk refuses to issue or renew any license, the city clerk shall notify the applicant. Such notice shall specify the reason for the denial or nonrenewal of the license.
- (d) An applicant who has been denied a license or a renewal of a license may, at any time, petition in writing the city council for a hearing or make a written application to the city clerk for reconsideration for the purpose of issuing or renewing the license. Any such hearing shall be held by the city council at the next regularly scheduled city council meeting, which is at least ten (10) days after the date the city receives the petition from the licensee. The city clerk shall notify the applicant of the date and time of such meeting. The applicant shall be heard by the city council at the hearing. Based upon the record of such hearing, the city council shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing, with exception of a liquor license (which is governed pursuant to chapter 4 of this Code), but the city council may modify or rescind any such official notice or order only upon a two-thirds (2/3) vote of all the members of the city council.

(Ord. No. 718, § 1, 7-17-01; Ord. No. 847, §§ 1, 2, 2-1-05)

#### Sec. 10-166. - Investigations.

Upon receipt of an application for a license which requires an investigation or an inspection by any department of the city or other governmental unit and the approval thereof as to the character or fitness of any applicant for a license, or as to the proper location of the premises in which the business for which the license is applied is to be managed, conducted, operated or carried on, the city clerk or his/her designee shall transmit to each department or governmental unit charged with the investigation and approval of any such application, such information as may be necessary in order that the required investigation or inspection may be made. Each department head so charged with such investigation or inspection shall, upon receipt of such information, cause an investigation or inspection to be made and shall do so within ten (10) days after the receipt of such information, shall either approve or disapprove the issuance of such license, and shall notify the city clerk or his/her designee.

(Ord. No. 718, § 1, 7-17-01)

#### Sec. 10-167. - Use determination.

All licenses shall be issued based on a single use as opposed to being a varied use at any one location and that use which has the largest percentage shall be the overriding use which shall be used in determining the rate to be set.

(Ord. No. 718, § 1, 7-17-01)

#### Sec. 10-168. - Transfer of license.

A license is non-transferable and non-assignable.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-169. - Separate license for each place of business.

A separate license shall be obtained for each stand, store or place of business conducted, operated or maintained by every merchant, business, occupation or manufacturer or warehouse for which a license is required.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-170. - Additional business at same address.

Whenever any applicant for a license is engaged in more than one (1) occupation or business at the same address, in lieu of making separate applications for each occupation or business, the applicant shall make application for the major or principal business being conducted thereon and shall also list on the application each other type of business being conducted thereon. Under this article, a business shall be classified as that of a merchant, manufacturer, warehouse or service occupation according to principal activity of business.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-171. - Change of location or operation.

If any licensee desires, before the expiration of the license period, to change the location of his/her place of business, he/she shall notify the city clerk of such a change. No business or occupation shall be engaged in by the licensee at a new location under the authority of such a license until the notice of the change of location has been given to the city clerk, and until the licensee has complied with all the provisions of this article with respect to the new business location, including the approval of the head of the departments or governmental units which originally approved the application for the license.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-172. - Display of license.

Each license granted by the city shall be carefully preserved and shall be displayed in a conspicuous place in the place of business authorized to be conducted by such a license.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-173. - Inspection of premises.

The director of public works or his/her designee shall have the right at all reasonable times during regular business hours to examine the premises for the purpose of determining the truthfulness and accuracy of any statements made by the applicant in his/her application for license or in the payment if his/her fee.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-174. - Condition of premises.

No license shall be issued for the conduct of any business, nor shall any license be renewed, if the premises and building to be used for such purpose does not fully comply with the requirements of chapter 6 of this Code. No such license shall be issued for the conduct of a business or the performance of an act which would constitute a violation of the zoning code.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-175. - Fee waiver.

When, in the opinion of the city council, it is in the best interest of the public welfare, and when the license sought is for charitable purposes or is sponsored by a charitable, religious or non-profit association or group of persons, the fee may be waived. In no case shall the filing of an application be waived.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-176. - Records.

The city clerk shall keep a record of every license issued, the amount of the fee paid, the purpose for which such license was issued, the location where the licensed privilege is to be exercised and the name of the licensee.

(Ord. No. 718, § 1, 7-17-01)

Sec. 10-177. - License revocation or suspension.

- (a) Any license may be revoked by the city clerk at any time for conditions or considerations which, had they existed at the time of issuance, would have been valid grounds for its denial; for any misrepresentation of a material fact in the application discovered after issuance of the license; or for a violation of the license relating to the business, occupation or activity for which the license was issued. Such revocation shall become effective upon notice to the licensee. Such notice shall specify the reasons for suspension and may provide the conditions under which reinstatement of the license may be obtained. Upon compliance with such conditions within the time specified, such license may be restored.
- (b) No license shall be suspended or revoked, except as provided in subsection (c) hereof, until notice has been given to the licensee as hereinafter provided, until a reasonable time, not to exceed seven (7) days, has elapsed to enable the licensee to comply with the provisions of this article and applicable state statutes and to give the licensee the opportunity to be heard by the city clerk. Such suspension or revocation of a license may be in addition to any fine imposed by this article. No licensee, whose license has been revoked as provided in this section, shall be eligible for a new license during the period for which the revoked license was originally issued.
- (c) Anything herein or hereafter notwithstanding, the city clerk may suspend for a period not to exceed thirty (30) days, without prior warning, notice or hearing, any license issued under this article during the term of such license, for the failure of any licensee to comply with any provision of this article, a statute of the state or the license relating to the business, occupation or activity for which such license was issued if, in the judgement of the city clerk, such failure constitutes a clear and present danger to the public safety.
- (d) A license holder whose license is suspended or revoked shall immediately discontinue the business, occupation or activity for which the license was issued. A separate offense shall be deemed committed each day the license holder continues to do business after a license suspension or revocation.
- (e) A licensee whose license is suspended or revoked may, at any time, petition in writing the city council for a hearing or make a written application to the city clerk for reinspection for the purpose of reinstating the license. Any such hearing shall be held by the city council at the next regularly scheduled city council meeting which is at least ten (10) days after the date the city receives the

petition from the licensee. The city clerk shall notify the licensee of the date and time of such meeting. The licensee shall be heard by the city council at the hearing. Based upon the record of such hearing, the city council shall make a finding and shall sustain, modify or rescind any official notice or order considered in the hearing, with exception of a liquor license (which is governed pursuant to chapter 4 of this Code), but the city council may modify or rescind any such official notice or order only upon a two-thirds (2/3) vote of all the members of the city council.

(Ord. No. 718, § 1, 7-17-01; Ord. No. 847, §§ 3, 4, 2-1-05)

Sec. 10-178. - Violations; penalties.

- (a) *Delay in payment.* All license fees provided for in this article shall be deemed delinquent if not paid in full by June 30 of each year, and any person so delinquent shall pay to the city clerk an additional ten (10) percent of the amount due for the first month of such delinquency and eighteen (18) percent of the amount due for each month or part thereof that such delinquency thereafter continues, in addition to any other penalty described in this article.
- (b) *False statement causing a reduction of payment.* Any person who makes a false statement which causes a reduction in any license fee shall be required to pay to the city the additional amount due, plus a penalty of twenty-five (25) percent of such additional amount plus one (1) percent interest per month or fraction thereof on such additional amount from the date originally due, in addition to any other penalties prescribed in this article.
- (c) *Noncompliance or violation.* Any person who fails to comply with or violates any provision of this article shall be guilty, upon conviction thereof, of an offense. Any fine assessed for such an offense shall be in addition to any other penalties assessed for delinquency or false statements causing a reduction in payment.
- (d) *Revocation.* Any failure to comply with, or any violation of, any provision of this article by any licensee shall be cause for revocation or suspension of such a license by the city clerk and such revocation or suspension shall be in addition to any other penalties prescribed in this article.
- (e) *Penalty.* Any person who violates or fails to comply with any of the provisions of this article shall be fined not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000.00) for each offense. Each day a violation exists is deemed a separate offense.

(Ord. No. 718, § 1, 7-17-01; Ord. No. 862, § 2, 5-17-05; Ord. No. 896, § 1, 12-5-06)

Sec. 10-179. - Delinquent renewals.

All licenses that have not been renewed by June 30 of each year, will be sent a seven-day letter. If a response is not received by the seven-day deadline, a summons for court may be issued. The response from the representative of the business receiving the seven-day letter must be either a completed license application along with the required payment, including penalty due, or a notarized affidavit stating that such business is no longer operating. Any license paid for after the issuance of a summons will still require a court appearance and an inspection by the director of housing and commercial development prior to the issuance of a license. The fee for such inspection is one hundred dollars (\$100.00).

(Ord. No. 862, § 3, 5-17-05)

Secs. 10-180—10-190. - Reserved.

ARTICLE IX. - RESERVED<sup>[2]</sup>

**Editor's note**—Ord. No. 976, § 1, adopted Jun. 16, 2009, deleted Article IX, §§ 10-191—10-198, in its entirety. Former Article IX pertained to Residential Real Estate Rental Licenses. See Code Comparative Table for derivation.

Secs. 10-191—10-250. - Reserved.

ARTICLE X. - RESERVED

Secs. 10-251—10-300. - Reserved.

ARTICLE XI. - TEEN CLUB LICENSING CODE

Sec. 10-301. - Name and scope of article.

This article shall be known as the "Teen Club Licensing Code." It shall be effective in the City of Black Jack, Missouri.

(Ord. No. 990, § 1(A), 2-2-10)

Sec. 10-302. - Definitions.

As used in this article, the following terms shall have the meanings ascribed to them herein:

*City clerk* means the City Clerk of the City of Black Jack or the city clerk's designee.

*Period of operation* means the period of time from the opening of the teen club on a particular day until the subsequent closing time.

*Teen club* means all buildings and places of assembly where the majority of intended occupants on any given occasion are persons age 14 through 19, inclusive, who are unaccompanied by a parent or guardian. "Teen Club" shall include but not be limited to teen nightclubs, teen dance clubs and teen entertainment establishments, even if the teen events are only occasional events at that facility. However, "Teen Club" shall not include:

- (1) Publicly-owned facilities, including recreation centers and community centers, public libraries and public schools;
- (2) Premises with a license issued pursuant to the provisions of the Alcoholic Beverages Code, Chapter 4 Article II of the Code of Ordinances of the City of Black Jack, as amended;
- (3) Establishments that would otherwise be subject to the provisions of this article, during and only during the period of time that one of the following events is being conducted in the establishment:
  - a. Events organized and operated by a charitable, civic, political, religious, educational, recreational, fraternal, or cultural organization which is tax-exempt pursuant to Section 501(c) of the Internal Revenue Code of 1986, as amended; or
  - b. Dances, proms, and other social gatherings intended for students, organized and operated by a public or private elementary, middle, high school, college or university.

(Ord. No. 990, § 1(B), 2-2-10)

Sec. 10-303. - License required.

No person shall operate a teen club without a valid teen club license issued by the city clerk.

(Ord. No. 990, § 1(C), 2-2-10)

Sec. 10-304. - Application for license.

- (a) Applications shall be made on a form provided by the city clerk. Applicants shall provide a verified application that contains the following information and documents:
- (1) If the applicant is:
    - a. An individual. The individual's legal name, aliases, social security number, business address and telephone number, and proof of age over eighteen (18);
    - b. A partnership. The complete name, address, telephone number and federal tax identification number for the partnership; names, telephone numbers and addresses of all general partners; and proof that the person signing the application is authorized to submit the application on behalf of the partnership;
    - c. A corporation, limited liability company or other business entity. Its complete name, business address, telephone number; date and place of formation; federal tax identification number; name, telephone number and address of each officer, managing officer(s), member, registered agent and any other person with authority to bind the entity; evidence of good standing under Missouri law; and proof that the person signing the application is authorized to submit the application on behalf of the business entity.
  - (2) The name of the teen club;
  - (3) Whether the applicant or any individual listed pursuant to subsection (1)a. above (except for the registered agents) has had a teen club license or permit (by any name) revoked, suspended, or denied by any governmental entity within the last five (5) years and, if so, the name of the business, the governmental entity that revoked, suspended or denied the permit or license and the date on which the license or permit was suspended, revoked, or denied;
  - (4) Whether the applicant or other listed individuals hold any other Teen Club licenses and the names and locations of all other such businesses;
  - (5) The proposed teen club location, street address and telephone number;
  - (6) The name, telephone number and address of each employee who will work at the teen club;
  - (7) A lighting plan for all parking areas and at all entrances and exists of the Teen Club which satisfies the standards set forth in Section[s] 1005.160.5.b)(2) [and] 1005.160.5.c) SLCRO for commercial properties, which is adopted herein by reference.
- (b) (1) The application must be signed by the individual applicant, or, if the applicant is a business entity, by a person authorized to sign the application on behalf of the business entity.
- (2) Applicants are under a continuing duty to update promptly their application information. Failure to do so within thirty (30) days of the date of a change in application information shall be unlawful and shall constitute grounds for license suspension or revocation.
- (3) If the city clerk learns that an applicant has improperly completed the license application, the city clerk shall promptly notify the applicant and allow ten (10) days for correction.
- (c) By filing an application under this article, applicants consent to the provisions of this article and to the investigation of the application by the personnel of the city. Such investigation shall include, but not be limited to, a criminal record check of all persons (except registered agents) listed on the application.
- (d)

A teen club license may be renewed annually upon written application, upon the finding by city clerk that the licensee is still in conformance with the license requirements. An applicant for a renewal license shall state on the application any changes in the information submitted in connection with the previously issued license.

(Ord. No. 990, § 1(D), 2-2-10)

Sec. 10-305. - Investigation of application.

Upon receipt of a completed application, the city clerk shall send copies of the application to the police department, the mayor, and all departments responsible for the enforcement of health and safety code ordinances. Within twenty (20) days of receipt of the application, each department shall investigate the application for compliance with its respective policies and codes and approve or disapprove same to city clerk, and the police department shall provide record checks for those persons identified in the application and may further report on the potential for disturbances in the surrounding area. A department shall recommend that the city clerk disapprove an application if it finds that the business would be in violation of a specific provision of an ordinance or regulation in effect in the city.

(Ord. No. 990, § 1(E), 2-2-10)

Sec. 10-306. - Issuance of a license.

- (a) An application shall be granted or denied within 45 days from the date of the city clerk's receipt of a completed application, unless an extension is requested by the applicant or the city clerk, for good cause, advises the applicant that additional time is needed to conduct investigations related to the application.
- (b) A Teen Club license shall expire on June 30 of each year.
- (c) The license shall state on its face the name of the person or persons to whom it is granted, the address of the teen club and the license expiration date. The license shall be posted at all times in a conspicuous place at or near the entrance to the teen club.
- (d) An application for an initial or renewal license shall be denied for any of the following reasons:
  - (1) The premises to be used are not in compliance with city health, fire, and/or building codes as determined by the department responsible for determining such compliance;
  - (2) An applicant has failed to provide information as requested in the application or has supplied false information;
  - (3) The criminal background check associated with the application for a Teen Club license reveals that any individual applicant or any person with authority to bind an applicant has pled guilty to or been convicted of a violation of this article or of any law involving: the provision of alcohol to a minor; sale of marijuana or narcotics; an act of violence against minors; or a sex offense;
  - (4) In the case of a renewal license, the number of police calls, which in the opinion of the supervising St. Louis County Police officer for the city are directly related to the licensed premises during the term of the license concerning crimes against person, disturbances, possession of a dangerous weapon, possession of drug paraphernalia, controlled substances violations, alcohol violations or other violations of this article is, in the opinion of the city clerk, excessive.
- (e) The city clerk may impose special conditions upon a license either initially or upon renewal, including but not limited to closing times, security requirements, notice to potentially affected neighborhoods, parking and pick-up areas, and identification of attendees, to ensure the safety and welfare of the City of Black Jack and its residents, where prior violations of this article or of health and safety-related laws

by the applicant or its partner(s) or officer(s) justify additional measures. An applicant aggrieved by any specially imposed condition may appeal to the city council in the manner for appeals from suspensions and revocations set out in this article.

(Ord. No. 990, § 1(F), 2-2-10)

Sec. 10-307. - Teen club employees.

A teen club licensee shall obtain criminal record checks from the St. Louis County Police Department of all persons employed to work at a teen club. It shall be unlawful to employ any person who has pled guilty to or found guilty of a violation of this article or any law involving: the provision of alcohol to a minor; sale of marijuana or narcotics; an act of violence against minors; or a sex offense.

(Ord. No. 990, § 1(G), 2-2-10)

Sec. 10-308. - Security personnel.

- (a) It shall be the obligation of a person issued a teen club license to maintain at all times when the teen club is open for business a sufficient force of adequately trained and properly licensed security personnel. Such security personnel shall consist of off-duty commissioned police officers or persons holding private watchman licenses issued by the St. Louis County Police Department. The number of security personnel required to be present shall be determined by the city clerk, in consultation with the supervising St. Louis County Police Officer for the city, at the time of license issuance, based on such factors as the permitted occupancy of the teen club and the vicinity of the teen club to other businesses or residences in the area provided in this article.
- (b) Security personnel employed at a teen club shall be required by the license holder to maintain the public peace and order around the teen club, including the parking lot, public sidewalk and general vicinity of the teen club.

(Ord. No. 990, § 1(H), 2-2-10)

Sec. 10-309. - Restrictions on admission.

- (a) A teen club shall require a ticket for admission, whether or not an admission fee is charged. For any period of operation, no ticket may be issued once the number of tickets issued reaches the number of persons who may be permitted in the teen club pursuant to the occupancy permit for the teen club premises.
- (b) No tickets shall be issued for any period of operation later than 4:00 p.m. preceding the period of operation for which the tickets are valid. No ticket shall be valid for more than one (1) period of operation.
- (c) No person shall be admitted to a teen club, whether or not the person is holding an admission ticket, without first providing proof of being at least fourteen (14) years of age and less than twenty (20) years of age.

(Ord. No. 990, § 1(I), 2-2-10)

Sec. 10-310. - Persons waiting for admission.

The licensee shall provide an area, wholly on the private property of the teen club, where persons waiting for admission to the teen club may assemble without occupying space off of the property of the teen club and where they will be easily in view of the security personnel employed by the teen club.

(Ord. No. 990, § 1(J), 2-2-10)

Sec. 10-311. - Unlawful acts.

It shall be unlawful for any person to:

- (1) Operate a teen club without a valid license or in violation of any special conditions of that license;
- (2) Operate a teen club between the hours of 11:30 p.m. and midnight or between 12:01 a.m. and noon;
- (3) Admit, permit, or otherwise facilitate the admittance into any teen club of a customer or patron who is younger than fourteen (14) or older than twenty [(20)] years of age;
- (4) Admit, permit, or otherwise facilitate the admittance into any teen club of persons in a number that exceeds the maximum occupancy listed on the occupancy permit for the premises;
- (5) Operate or permit the operation of a teen club in violation of an ordinance concerning noise;
- (6) Operate or permit the operation of a teen club when the licensee or a manager identified in the application is not physically present on the licensed premises;
- (7) Allow or permit any disorderly conduct or other criminal activity within the teen club or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the teen club;
- (8) Admit or allow to be admitted into any teen club, any person who is visibly intoxicated or visibly under the influence of drugs;
- (9) Fail to immediately report to the St. Louis County Police Department any disorderly conduct, any other criminal activity, or violations of this article occurring within the licensed premises or upon any parking areas, sidewalks, walkways, access ways or grounds immediately adjacent to the licensed premises;
- (10) Fail to comply with any requirement imposed by this article.

(Ord. No. 990, § 1(K), 2-2-10)

Sec. 10-312. - Suspension, modification and revocation of licenses.

- (a) The city council, after public hearing, may suspend or revoke any license issued under this article for violations of this article.
- (b) The city clerk may review the license and consider license modifications or recommending suspension or revocation if there is a disproportionate use of public safety resources including, but not limited to, a substantial number of police calls to the licensed premises or in the vicinity of the premises concerning crimes against person, disturbances, possession of a dangerous weapon, possession of drug paraphernalia, controlled substances violations, alcohol violations or other violations of this article within any twelve (12) month period that result in a complete investigative report. The city clerk shall be notified by the supervising St. Louis County Police officer for the city of the information in the reports whenever, in the opinion of the supervising police officer, the use of police resources at or in the vicinity of a particular teen club becomes excessive. Any modification shall be reasonably related to the goal of reducing the frequency of police calls to the licensed premises or to the vicinity of the licensed premises. In consultation with the supervising police officer, the city clerk will determine whether formal review of the license is warranted. If the city clerk determines that suspension or revocation of the license should be recommended, the city clerk shall send that recommendation to the city council for review and to determine whether the license should

be suspended or revoked. The applicant will be notified within five (5) business days of any modification to the license or that the license has been referred to the city council for possible suspension or revocation.

- (c) The city clerk may revoke the license of any establishment granted a license that is under construction but not exhibiting satisfactory progress toward completion within six (6) months from its issuance, or any teen club that ceases operation for a period of six (6) months. A hearing shall be held to determine what progress has been made toward opening or reopening the teen club and, if satisfactory progress is not demonstrated, the city clerk may revoke the license.

(Ord. No. 990, § 1(L), 2-2-10)

Sec. 10-313. - Appeal from denial or modification of license.

An applicant who has been denied either an initial license or a renewal license, or whose license has been modified may appeal the city clerk's decision to the city council by filing a written notice of appeal within ten days of the modification or denial. The city council shall schedule a public hearing of such appeal within fifteen (15) days of filing of the written notice of appeal, or as soon thereafter as is possible. The city council shall affirm the decision of the city clerk if it finds by clear and convincing evidence that the conditions pertinent to issuance of a license have not been met or that the proposed modification is supported by the facts. An applicant aggrieved by any decision of the city council shall have the right to seek judicial review as is permitted by applicable state law.

(Ord. No. 990, § 1(M), 2-2-10)

Sec. 10-314. - Review of proposed suspension or revocation.

Upon receiving a recommendation from the city clerk that a license should be suspended or revoked, the city council shall schedule a public hearing on such recommendation within fifteen (15) days of the filing of such recommendation, or as soon thereafter as is possible. The city council shall determine by clear and convincing evidence that the conditions required by this article to retain a license have or have not been met. If the information presented indicates that the conditions to maintain the license have not been met, then the city council may, in its discretion, suspend or revoke the license. If the license is to be suspended, the city council shall determine the number of days for such suspension and any other special conditions it deems appropriate in connection with such suspension. An applicant aggrieved by the decision of the city council shall have the right to seek judicial review as is permitted by applicable state law.

(Ord. No. 990, § 1(N), 2-2-10)

## ARTICLE XII. - SCRAP METAL DEALERS CODE

Sec. 10-315. - Short title.

This article shall be known and may be cited as "The Scrap Metal Dealers Code." It shall be effective within the boundaries of the City of Black Jack, Missouri.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-316. - Definitions.

Unless it appears that a different meaning is intended, the following words shall have the meaning given them by this section:

*Catalytic converter* means a device designed for use in a vehicle for the purpose of chemically converting harmful exhaust gases, produced by the internal combustion engine, into harmless carbon dioxide and water vapor.

*Copper property* means any insulated copper wire, copper tubing, copper guttering and downspouts, copper alloys, or any item composed completely of copper.

*HVAC component* means any air conditioner evaporator coil or condenser used in connection with a residential, commercial or industrial building.

*Scrap metal dealer* means any person or business entity that purchases products containing ferrous or non-ferrous metals for recycling or resale. For the purposes of this article, any person holding a license under "The Waste Management Code" of St. Louis County, Chapter 607 SLCRO 1974 as amended as a recycling center or as a waste hauler shall not be considered a scrap metal dealer, nor shall a duly licensed HVAC contractor, plumber or electrician be considered a scrap metal dealer. For the purpose of enforcing violations of this article, it shall be a rebuttable presumption that any person storing or possessing at their place of business more than 100 pounds of the items specified herein shall be presumed to be a scrap metal dealer.

*Vehicle repair business* means any commercial facility engaged in the repair or replacement of car, truck and van, motorcycle or other motorized mechanical and exhaust components, whether as a primary or ancillary activity.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-317. - Hours of operation.

Hours of retail operation for scrap metal dealers may be no earlier than 6:00 a.m. and no later than 7:00 p.m. daily.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-318. - Electronic database requirements.

- (a) Every scrap metal dealer shall keep a retrievable electronic database containing a consecutively numbered record of each and every purchase of ferrous and non-ferrous metals.
- (b) Any person selling, exchanging or trading ferrous or non-ferrous metal to a scrap metal dealer shall present a valid driver's license and/or a picture identification from a state or federal issuing agency (i.e., state issued identification or passport) to the scrap metal dealer.
- (c) Scrap metal dealers shall, at the time of making the purchase, enter into the electronic database the following information:
  - (1) Name, gender, date of birth, and address of the seller as indicated on the state or federally-issued driver's license and/or picture identification.
  - (2) Date of the scrap metal purchase.
  - (3) Driver's license number and/or a picture identification from a state or federal issuing agency (i.e., state issued identification or passport) capable of identifying the seller.
  - (4) Amount paid therefor.
  - (5) Kind of metals purchased.
  - (6) Number of pounds of each kind.

(7) License plate number of the vehicle delivering the material.

The information entered into the electronic database shall be completed in full without any missing data or information.

- (d) The electronic database shall at all times be open for inspection by police or other law enforcement officers, during normal business hours without warrant or subpoena.
- (e) A transaction receipt shall consist of the same information required under subsection (c) of this section and shall include the following statement: "By accepting payment from [insert name of scrap metal dealer], seller represents and warrants that the material documented by this receipt is owned by or was lawfully obtained and the seller has the legal right to sell the material to [insert name of scrap metal dealer]." If the seller provides any documentation that the person is in lawful possession of the scrap metal, or was otherwise lawfully acquired, including without limitation a bill of sale or receipt, the scrap metal dealer shall photocopy such documentation and maintain it with the transaction information otherwise required by this section.
- (f) All records described in this section shall be maintained for three years from the date of sale.
- (g) A scrap metal dealer or the agent, employee or representative of a scrap metal dealer shall not disclose personal information concerning a customer obtained pursuant to this article without the consent of the customer unless the disclosure is made in response to a request from a law enforcement agency. A scrap metal dealer shall implement reasonable safeguards to protect the security of the personal information required pursuant to this section; and to prevent unauthorized access to or disclosure of that information. A scrap metal dealer shall not be liable to any customer for disclosure of personal information if the scrap metal dealer has met the requirements of this subsection.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-319. - Restricted purchases and exceptions.

- (a) No person shall knowingly sell or attempt to sell to a scrap metal dealer, and no person shall knowingly and willfully purchase, the following types of scrap metal:
  - (1) Any metal that can be identified as belonging to a public or private cemetery or to a political subdivision or electrical cooperative, municipal utility, wireless communications service provider or a utility regulated under Ch. 386 or 393 RSMo, including bleachers, guardrails, signs, street and traffic lights or signals, cables and conductors used in low, medium or high voltage electrical distribution and transmission lines, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political subdivision, electrical cooperative or utility or manufacturer of the metal or item described in this section unless such person is authorized in writing by the cemetery or monument owner, political subdivision, electrical cooperative or utility or manufacturer to sell the metal;
  - (2) New materials, such as those used in construction, or equipment or tools used by contractors unless accompanied by proof of ownership or authorization to sell the materials on behalf of the owner;
  - (3) Materials which are clearly marked as property belonging to someone other than the seller, unless accompanied by written authorization from the business or property owner evidencing the seller has the legal right to sell the material;
  - (4)

HVAC components unless accompanied by written authorization from a licensed HVAC business evidencing that the components were legally removed in compliance with the Federal Clean Air Act and its regulation and the seller has the legal right to sell the material;

- (5) Catalytic converters except when sold directly to or from a vehicle repair business.
- (b) The scrap metal dealer shall make a photocopy of any documentation provided pursuant to this subsection, retain the copy as part of the transaction record, and maintain such photocopy for a period of three years following the transaction. All photocopies shall be made available for inspection upon request by a police or other law enforcement officer.
- (c) No scrap metal dealer shall purchase or otherwise receive from a person under the age of eighteen (18) any ferrous or non-ferrous metal, other than aluminum cans.
- (d) This section shall not apply to any transaction for which the seller has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates a business with a fixed location that can be reasonably identified by such business.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-320. - Purchase of certain scrap metal-requirements.

- (a) A scrap metal dealer shall pay for any copper property or HVAC component as follows:
  - (1) Payment to any seller of copper property or HVAC component shall be by check. Checks shall be payable only to the person whose name was recorded as delivering the copper property or HVAC component; provided, however, that if such person is delivering the copper property or HVAC component on behalf of a governmental entity or the owner of the copper property or HVAC component, the check may be payable to such entity or owner. All checks issued to a seller of copper property or HVAC component shall be mailed via U.S. Mail to the address provided on the driver's license or picture identification provided by the seller.
- (b) This section shall not apply to any transaction for which the seller holds a business license issued by any political subdivision of the state and has an existing business relationship with the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business or political subdivision that operates with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-321. - Hold notice.

- (a) A scrap metal dealer with actual knowledge that copper property or HVAC component in its possession has been stolen shall notify the Black Jack Substation of the St. Louis County Police and provide any information in its possession relative to the seller or to the sale transaction.
- (b) Following notice from the scrap metal dealer, or upon reasonable suspicion that the scrap metal dealer is in possession of stolen property, the police department may issue a ten-day hold order to the scrap metal dealer requiring that the suspect material not be sold or otherwise transferred from the possession of the scrap metal dealer for up to ten days.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-322. - Specific violations.

- (a) No person shall knowingly present for sale to a scrap metal dealer stolen ferrous or non-ferrous metal, including, but not limited to, copper property or HVAC components.

- (b) No person shall mutilate, deface or otherwise damage any personal or real property owned by another person for the purpose of obtaining ferrous or non-ferrous metals.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-323. - Use of scrap metal theft alert system.

Scrap metal dealers shall register with or subscribe to the alert system established by the Institute of Scrap Recycling Industries, Inc., referred to as the ISRI Scrap Metal Theft Alert System and maintain that registration or subscription.

(Ord. No. 1041, § 1, 10-16-12)

Sec. 10-324. - Penalties.

- (a) No person or entity shall violate any of the provisions of this article.
- (b) A person or entity convicted of violating any of the provisions of this article shall be punished by a fine of up to five hundred dollars (\$500.00) or a term in jail of up to thirty (30) days or both.

(Ord. No. 1041, § 1, 10-16-12)

Chapter 11 - MISCELLANEOUS PROVISIONS AND OFFENSES<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Definitions and rules of construction generally, § 1-2; service charge for false alarms rendered through alarm systems, § 3-9; driving while under the influence of alcoholic beverages or drugs, § 20-268; driving with excessive blood alcohol count, § 20-269.*

ARTICLE I. - IN GENERAL

Sec. 11-1. - Costs of incarceration to be charged to persons convicted.

- (a) It is the intent of this section that persons convicted of an offense or misdemeanor and committed to the St. Louis County Jail, or any subsequent provider of jail services on behalf of the City of Black Jack (the "Correctional Facility"), shall pay for the cost of their incarceration.
- (b) The cost assessed to an inmate shall be the actual costs assessed against the city by the correctional facility. Said costs may consist of all reasonable costs of confinement calculated on a per diem basis or based on actual expenses, including without limitation, any necessary transportation related thereto, medical costs incurred while a person is incarcerated as set forth in subsection (c) below, and costs relating to the arrest and testing of any person for any intoxication-related traffic offense as set forth in subsection (d) below.
- (c) Any and all medical expenses incurred by an inmate assessed against the city shall be imposed upon the incarcerated person receiving such medical treatment, including without limitation, medical expenses incurred in connection with medical and dental examination and treatment, over-the-counter and prescription medications, and hospitalization expenses, less any co-payment collected from the inmate at the time medical expenses were rendered or received.
- (d) Upon a plea or a finding of guilty of any ordinance involving alcohol or drug related traffic offense, the city may impose the costs associated with such arrest which are assessed against the city to the person convicted thereof. Such costs hereby authorized shall include the reasonable cost of making the arrest, including the cost of chemical test made as authorized or required by law or ordinance to determine the alcohol or drug content of the person's blood, and the costs of processing, charging, booking and holding such person in custody.

- (e) The prosecuting attorney is hereby authorized to seek, levy and sell, by appropriate motion of the court having criminal jurisdiction, any property owned by the defendant to satisfy payment of the expenses imposed under this section when it appears that the defendant has made no effort to reimburse the city for costs of the defendant's incarceration, including medical expenses, assessed against the city.

(Ord. No. 822, §§ 1—5, 6-15-04)

Secs. 11-2—11-15. - Reserved.

## ARTICLE II. - OFFENSES INVOLVING PROPERTY

Sec. 11-16. - Stealing.

No person shall steal, take or carry away any public or private real or personal property or effect or possession of another.

(Ord. No. 198, § 6, 12-5-78)

**State Law reference—** Stealing, RSMo. § 570.030.

Sec. 11-17. - Receiving stolen property.

No person shall buy or in any way receive with intent to defraud, any property that shall have been stolen from another, knowing the same to have been stolen.

(Ord. No. 198, § 7, 12-5-78)

**State Law reference—** Receiving stolen property, RSMo. § 570.080.

Sec. 11-18. - False pretenses.

No person shall obtain food, merchandise, other property or services within the city with intent to defraud the owner or manager or the person in control thereof. Any of the following facts or circumstances shall be deemed prima facie evidence of such intent to defraud:

- (1) That food, merchandise, other property or services were obtained by false or fictitious show of other property; or
- (2) That food, merchandise or other property or services were obtained by false pretenses.

(Ord. No. 198, § 32, 12-5-78)

**State Law reference—** Stealing, RSMo. § 570.030.

Sec. 11-19. - Bad checks, etc.

- (a) No person, with the intent to cheat and defraud, shall obtain or attempt to obtain from any other person any money, property or valuable thing by means, or by use, of any false or bogus check, or by means of a check drawn with intent to cheat and defraud on a bank in which the drawer of the check knows he has no funds, or by means or by use of any corporation stock or bonds, or by any other written or printed or engraved instrument or spurious coin or metal. No person shall procure or attempt to procure any article or thing of value by making or drawing or uttering or delivering with intent to defraud, any check, draft or order for the payment of money upon any bank or other depository, knowing at the time of such making, drawing, uttering or delivering that the maker or drawer has not sufficient funds in or credit with such bank or depository for the payment of such check, draft or order in full upon its presentation.

- (b) As against the drawer, refusal of payment by the bank on which a check is drawn on the grounds that the drawer has no account or there are insufficient funds to pay the check or because payment has been stopped without good and sufficient cause, the unpaid check and proof of the giving thereof as aforesaid shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds on deposit with which to pay the check or of the fact that there is no account with the bank on which it is drawn or the payment was stopped without good and sufficient cause, and shall also be prima facie evidence of the fact that there were insufficient funds with which to pay the check or that the drawer had no account with the bank or that payment was stopped without good and sufficient cause, according to the reason for refusal indicated by the bank; provided that drawer shall not have paid the drawee thereof the amount due thereon, together with all costs and protest fees within five (5) days after the depositing of written notice by certified mail, return receipt requested, by the holder of the check addressed to the drawer of the check at his last known address, informing him that such bank has refused payment and the grounds therefor.
  - (c) The word "credit" as used in subsection (a) shall be construed to mean an arrangement or understanding with the bank or depository for the payment of such check, draft or order.
- (Ord. No. 183, §§ 1—3, 5-16-78)

**State Law reference—** Passing bad checks, RSMo. § 570.120.

Sec. 11-20. - Malicious mischief.

- (a) It shall be unlawful for any person to damage or deface any building, structure, street, sidewalk, driveway, vehicle, equipment, appliance, furniture, tools, fence, tree, sign or any other property belonging to the city, or to cut, injure, break, daub with paint or other substance, work with chalk or crayon or destroy, mutilate remove or tear down such property.
- (b) It shall be unlawful for any person, with malicious intent, to damage or deface any building, structure, street, sidewalk, driveway, vehicle, equipment, appliance, furniture, tools, fence, tree, sign or any other property belonging to any other person, or to cut, injure, break, daub with paint or other substance, work with chalk or crayon or destroy, mutilate remove or tear down such property.
- (c) It shall be unlawful for any person to wilfully and without right destroy, deface, injure or damage any yard, lawn, garden, orchard, courtyard, or any other unpaved portion of any real property by operating a vehicle thereupon without the express permission of the owner or person in control of said property.
- (d) It shall be unlawful for any person to wilfully and intentionally operate a vehicle upon any unpaved portion of any real property without the express permission of the owner or person in control of said property.
- (e) The following definitions shall apply in the interpretation and enforcement of this section:
  - (1) *Vehicle* shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon.
  - (2) *Property* shall mean any real property within the city which is not a street or highway.
  - (3) *Yard or lawn* shall mean any portion of the property which is not paved by means of asphalt, concrete, gravel or any other material and not intended for the operation of vehicles thereon.
- (f) For purposes of this section, the owner or person in whose name such vehicle is registered in the records of any city, county, or state, shall be presumed to be the operator of said vehicle.

(Ord. No. 76, §§ 1—7, 8-1-72; Ord. No. 48, § 3, 3-16-76; Ord. No. 793, § 1, 6-17-03)

**Cross reference—** Miscellaneous mischief in parks, § 14-45.

**State Law reference—** Malicious mischief generally, RSMo. § 569.090 et seq.

Sec. 11-21. - Trespass in the first degree.

- (a) A person commits the offense of trespass in the first degree if he knowingly enters unlawfully or knowingly remains unlawfully in a building or inhabitable structure or upon real property.
- (b) A person does not commit the offense of trespass in the first degree by entering or remaining upon real property unless the real property is fenced or otherwise enclosed in a manner designed to exclude intruders or as to which notice against trespass is given by:
  - (1) Actual communication to the actor; or
  - (2) Posting in a manner reasonably likely to come to the attention of intruders.
- (c) Trespass in the first degree is an offense.
- (d) The provisions of RSMo §§ 569.010 and 569.130 shall apply to the provisions of this section.

(Ord. No. 198, § 8, 12-5-78)

**State Law reference—** Similar provisions, RSMo. § 569.140.

Sec. 11-22. - Trespass in the second degree.

- (a) A person commits the offense of trespass in the second degree if he enters unlawfully upon real property of another. This is an offense of absolute liability.
- (b) Trespass in the second degree is an offense.
- (c) The provisions of RSMo. sections 569.010 and 569.130 shall apply to the provisions of this section.

(Ord. No. 198, § 8, 12-5-78)

**State Law reference—** Similar provisions, RSMo. § 569.150.

Sec. 11-23. - Loitering on school premises.

- (a) It shall be unlawful for any person to loiter on the premises of any public kindergarten, grade, junior high or high school in the city. It shall be unlawful for any person so loitering to fail or refuse to leave immediately such school premises upon request of the principal or other persons in charge thereof.
- (b) The provisions of RSMo. sections 569.010 and 569.130 shall apply to the provisions of this section.

**State Law reference—** Refusal to leave premises, RSMo. § 569.150.

Sec. 11-24. - Unauthorized driving, tampering etc., with motor vehicles.

- (a) No person shall drive, operate, use or tamper with a motor vehicle or trailer without the permission of the owner thereof nor shall any person, without the permission of the owner or person in charge thereof, climb upon or into or swing upon any motor vehicle or trailer, whether the same is in motion or at rest, or sound the horn or other sound producing device thereon, or attempt to manipulate any of the levers, starting devices, brakes or machinery thereof or set the machinery thereof in motion.
- (b) The provisions of this section shall apply to any person employed by the owner of such motor vehicle as a chauffeur or registered operator if the said motor vehicle is driven or operated, used or tampered with, without the owner's knowledge or expressed consent or in violation of his instructions.
- (c) No person shall knowingly ride in or upon a motor vehicle which has been stolen or is being operated without the consent of the owner thereof

(Ord. No. 198, § 9, 12-5-78)

**State Law reference**— Tampering in the second degree, RSMo. § 569.090.

Sec. 11-25. - Affixing of advertisements to public places.

No person shall paint, post, place, hang, suspend or affix any advertisement, card, poster, sign, banner, or streamer, of any nature or for any purpose, or cause the same to be done, on or to any curbstone, flagstone, or any other portion of any street or sidewalk, or upon any tree or lamp post standing or erected on any public street or right-of-way or other public place, which pole is used to carry telephone wires or cables, electric light wires or other electric conductors or to any hydrant, bridge or other public structure within the city; provided, however, that nothing herein contained shall apply to any official notice required by law, ordinance or resolution to be posted by public officers of the city or any other government agency.

(Ord. No. 198, § 33, 12-5-78)

**Cross reference**— Advertisements in parks, § 14-45; signs generally, Ch. 17.5.

Sec. 11-26. - Dissemination of false advertising.

It shall be unlawful for any person, with intent to sell or in any wise to dispose of, merchandise, securities, service or anything offered directly or indirectly by such person to the public for sale or distribution or with intent to increase the consumption thereof, or to induce the public in any manner to enter into any obligation relating thereto, or to acquire title thereto or any interest therein, to make, publish, disseminate, circulate or place before the public or cause, directly or indirectly to be made, published, disseminated, circulated or placed before the public within the city, any advertisement of any sort regarding merchandise, securities, service or anything therein offered for sale to the public, which advertisement contains, in singular or plural, any assertion, statement, or representation which is untrue, deceptive, misleading, in whole or in part, as to quantity, quality, character, kind or cost, or value of anything therein or thereby mentioned for sale.

(Ord. No. 198, § 34, 12-5-78)

**State Law reference**— False advertising, RSMo. § 570.160.

Sec. 11-27. - Graffiti.

- (a) As used in this section, the word "graffiti" shall mean and refer to any unauthorized inscription, word, phrase, motto, name, figure, symbol, picture or design which is written, scribbled, marked, etched, scratched, burned, carved, drawn or painted on any exterior surface or structural component of any building, structure, or other facility regardless of the nature of the material of that structural component. Graffiti shall constitute a nuisance.
- (b) No person shall cause graffiti to be placed upon any public or private building, fence, wall, bridge, sidewalk, road, parking area, street or road signs, utility structures, or traffic light standards, driveway, or similar structure or surface, nor shall the owner thereof suffer the same to remain thereon for a period exceeding ten (10) days after the date notice is mailed by the city to such person by U.S. mail, postage prepaid.
- (c) No person may be in the possession of any spray paint or any container thereof, nor any permanent or semi-permanent paint pens or similar device while in or upon any public or private road, or upon any public sidewalk, parking area, driveway, park or premises, with the intent of causing graffiti as

defined in subsection (b), above. Possession of a spray paint can in a public building, park, facility, or alley shall create a rebuttable presumption of intent to use the spray paint to cause graffiti in violation of this section.

- (d) If any unemancipated minor is found guilty of a violation of this section or is shown to have placed graffiti on the property of another, the parent(s) or guardian(s), excluding foster parents, having custody or control of such minor at the time the minor causes graffiti to be made in violation of this Ordinance, may be held liable in a civil action for damage to property and cost of removal of graffiti from property.
  - (1) *Damages shall be recoverable as follows:*
    - a. Damages up to two thousand dollars (\$2,000.00) shall be recoverable in full; and
    - b. Damages exceeding two thousand dollars (\$2,000.00) to the extent of one-half (½) of such damages actually suffered and in addition to the damages received under subsection a., above; and
    - c. Any injured party may not collect more damages than are sufficient to make that party whole; and
    - d. Payment of costs and attorney's fees may be awarded in addition to damages if a judgment is rendered against a party litigant and, in the opinion of the court, such an award is merited.
  - (2) The liability provided in this subsection is additional to, and does not preclude, any statutory or common law liability of parent(s), guardian(s) or unemancipated minor.
  - (3) The purpose of this section is to compensate tort victims to the extent permitted by law and to impose upon parents and guardians the responsibility to control the actions of their children.
- (e) In addition to the abatement provisions of this chapter, any person found guilty of violating any provision of this section may, upon conviction, be punished as provided in section 1-13, of this Code.
- (f)
  - (1) *Declaration of nuisance; prohibited acts.* The presence of graffiti upon public or private property within the city is hereby declared to constitute a public nuisance. No person shall create graffiti on any public or private building, structure, place, or personal property affixed to any real property within the city.
  - (2) *Definition.* As used in this article, "graffiti" shall mean either or both of the following, as the context requires:
    - a. The intentional act of defacing, damaging or destroying any public or private building, structure, place, or personal property affixed to real property, within the city, by spraying or marking with paint, ink, chalk, dye, or other similar substance any drawing, inscription, figure or mark of the type commonly known and referred to as graffiti; or
    - b. Any such drawing, inscription, figure or mark so sprayed or marked.
- (3) *Abatement.*
  - a. Notice to abate. Whenever the director of public works is informed and believes that a public nuisance by reason of the presence of graffiti exists on any private property within the city, he shall give written notice to the owner, possessor or occupant of such property of the graffiti and the duty to abate the graffiti within ten days from the date the notice is given. The notice to abate shall also include notice of a date, time and place for a hearing to determine whether the city shall be entitled to enter onto the property to abate the graffiti if the graffiti is not fully abated in a timely manner.
  - b.

Removal by property owner or occupant. Upon receipt of notice to abate graffiti, it shall be the duty of the owner, possessor or occupant of private property upon which graffiti has been affixed to removed obliterate or otherwise abate the graffiti existing on the property within the time specified in the notice. The owner, possessor or occupant may satisfy the duty to abate the graffiti by permitting authorized agents of the city or authorized community volunteers to enter onto the property in order to remove, obliterate or otherwise abate the graffiti.

- c. Removal by city upon failure to comply with notice. Upon failure of the owner, possessor or occupant of private property to abate or permit the abatement of graffiti within the time specified in the notice to abate, the director of public works shall, at the time, date and place specified in the notice to abate, conduct an informal hearing to determine whether there is probable cause to believe that graffiti is present on the property in question, and whether notice to abate has been given as required in this section. If the director of public works finds there is probable cause to believe that graffiti is present on the property and that proper notice to abate has been given, the director of public works shall forthwith enter an order authorizing the city to enter onto the property in order to abate the graffiti. Any person aggrieved by an order of the hearing officer may appeal from the order in accordance with the appeal procedures set forth in section 74-38.
- d. Upon completion of abatement by or at the request of the director, the cost of such abatement shall be certified to the administration and finance manager, who shall upon approval transmit the certification to the collector of revenue for inclusion of the certified cost in a special tax bill or with the annual real estate tax bill for the property. If the certified cost is not paid, the tax bill shall be considered delinquent and collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall be a lien on the property until paid.

(4) *Procedure for hearing.*

- a. Upon the filing of a request for hearing under subsection (3)a., above, the director shall hold a hearing within five (5) days thereof. Formal rules of evidence shall not apply, however the parties shall have the right to have an attorney present, present evidence, confront and cross-examine witnesses, and receive a written decision based upon the facts adduced at the hearing.
- b. The purpose of the hearing shall be to determine whether the condition as to which the owner was notified constitutes a public nuisance as defined by subsection (1).
- c. If the director is satisfied that there are reasonable grounds to believe that a violation exists which affects public health or safety, he shall order abatement of the violation under such conditions and within such time period as is deemed appropriate under the circumstances. Alternatively, the director may enter an order allowing the condition of the property to remain if no violation is found to have occurred.

- (5) *Penalty.* Any person convicted of a violation of this section shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment not to exceed thirty (30) days, or to both such fine and imprisonment. When appropriate, in addition to such fine and/or imprisonment, the court shall require those convicted of violation of subsection (1) to remove the graffiti and restore to its original condition the property on which the graffiti was created.

- (6) Any person who provides information identifying any individual or group of individuals who are responsible for creating graffiti on private or public property which results in a conviction of such individual or individuals under this article shall receive as a reward one-half (½) of the total fine collected from the convicted individual or individuals.

(Ord. No. 613-May 20, 1997, § 1, 5-20-97; Ord. No. 914, §§ 1—6, 8-7-07)

Sec. 11-28. - Theft of cable television, Internet, or telephone services prohibited.

(a) It shall be unlawful for any person:

- (1) To obtain or attempt to obtain cable television, Internet, or telephone services without paying all lawful compensation to the operator of such services, by means of artifice, trick, deception or device; or
- (2) To assist another person in obtaining or attempting to obtain cable television, Internet, or telephone services without paying all lawful compensation to the operator of such services; or
- (3) To connect to, tamper with or otherwise interfere with any cable, wire or other device used for the obtaining of cable television, Internet, or telephone services if the effect of such action is the obtaining of cable television, Internet, or telephone services without paying all lawful compensation; or
- (4) To sell, use, manufacture, rent or offer for sale, rental or use any device, plan or kit designed and intended to obtain cable television, Internet, or telephone services in violation of this section; or
- (5) To attempt to connect to, tamper with, or otherwise interfere with any cable television signal, cables, wires, devices or equipment used for the distribution of cable television, Internet, or telephone services and which results in the unauthorized use of a cable television, Internet, or telephone services system or the disruption of the delivery of cable television, Internet, or telephone services. Nothing in this section shall be construed to prohibit, restrict or otherwise limit the purchase, sale or use of any products, including without limitation hardware, software, or other items, intended to provide services and features to a customer who has lawfully obtained a connection from a cable television, Internet, or telephone service company.

(b) In a prosecution of a violation of this section, if evidence is admitted concerning the existence on the defendant's property, or in the possession of the defendant, of any connection wire or conductor connected in such a manner as to permit the use of cable television, Internet, or telephone services without the same being reported for payment to and specifically authorized by the operator of the cable television, Internet, or telephone services, there shall be a rebuttable presumption that the accused has committed an act made unlawful in subsection 1.

(c) As used in this section, the following definitions shall apply:

- (1) *Video service*, the provision of video programming provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology whether provided as part of a tier, on demand, or a per-channel basis. This definition includes cable service as defined by 47 U.S.C. Section 522(6), but does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. Section 332(d), or any video programming provided solely as part of and via a service that enables users to access content, information, electronic mail, or other services offered over the public Internet;
- (2) *Video service provider*, any person that distributes video service through a video service network pursuant to a video service authorization.

(Ord. No. 1043, § 1, 10-16-12)

Secs. 11-29—11-40. - Reserved.

### ARTICLE III. - OFFENSES AGAINST PUBLIC ORDER

Sec. 11-41. - Reserved.

**Editor's note—** Ord. No. 812, § 1, adopted April 6, 2004, repealed former section 11-41 in its entirety which pertained the carrying of concealed weapons and derived from Ord. No. 198, § 17, adopted Dec. 5, 1978.

Sec. 11-42. - Peace disturbance.

A person commits the crime of peace disturbance if:

- (1) He unreasonably and knowingly disturbs or alarms another person or persons by:
  - a. Playing any radio, music player such as a "boom box," tape cassette, disc player, television, audio system or musical instrument in a manner or at a volume that disturbs the peace of any other person; except, however, that nothing herein shall be construed to prohibit an otherwise lawful public concert or public performance; or
    1. For prosecution under this subsection, it shall be presumed that the playing of any radio, music player such as a "boom box," tape cassette, disc player, television, audio system or musical instrument, except the playing of musical instruments, individually or collectively, in connection with a school band, is disturbing to the peace of another if played at a volume which is plainly audible to persons more than fifty (50) feet from the source of the noise.
  - b. Offensive language addressed in a face-to-face manner to a specific individual and uttered under circumstances which are likely to produce an immediate violent response from a reasonable recipient; or
  - c. Threatening to commit a felonious act against any person under circumstances which are likely to cause a reasonable person to fear that such threat may be carried out; or
  - d. Fighting; or
  - e. Creating a noxious and offensive odor.
  - f. Making a loud noise.
- (2) He is in a public place or on private property of another without consent and purposely causes inconvenience to another person or persons by unreasonably and physically obstructing:
  - a. Vehicular or pedestrian traffic; or
  - b. The free ingress or egress to or from a public or private place.

(Ord. No. 654, § 2, 5-4-99; Ord. No. 713, § 1, 6-5-01)

**Editor's note—** Section 1 of Ord. No. 654, adopted May 4, 1999, revoked § 11-42 which pertained to peace disturbance and derived from Ord. No. 198, § 3, adopted Dec. 5, 1978. Sections 2—4 of Ord. No. 654 enacted similar more extensive provisions designated as §§ 11-43—11-45. Inasmuch as §§ 11-43—11-45 already exists in the Code, the new provisions of Ord. No. 654 have been redesignated as §§ 11-42—11-42.2, at the discretion of the editor.

**Cross reference—** Disturbing the peace in parks, § 14-45.

**State Law reference—** Peace disturbance, RSMo §§ 574.010, 574.020.

Sec. 11-42.1. - Private peace disturbance.

A person commits the crime of private peace disturbance if he is on private property and unreasonably and purposely causes alarm to another person or persons on the same premises by:

- (1) Threatening to commit a crime against any person; or
- (2) Fighting.

(Ord. No. 654, § 3, 5-4-99)

**Note—** See editor's note, § 11-42.

Sec. 11-42.2. - Peace disturbance definitions.

For the purposes of sections 11-42 and 11-42.1:

- (1) *Property of another* means any property in which the actor does not have a possessory interest.
- (2) *Private property* means any place which at the time is not open to the public. It includes property which is owned publicly or privately.
- (3) *Public place* means any place which at the time is open to the public. It includes property which is owned publicly or privately.
- (4) *Separate property*. If a building or structure is divided into separately occupied units, such units are "separate property."

(Ord. No. 654, § 4, 5-4-99)

**Note—** See editor's note, § 11-42.

Sec. 11-42.3. - No loud noise signs.

- (a) The City of Black Jack's Public Works Director or his designee shall acquire a sufficient number of signs reading "no loud noise" and applicable ordinance number in a size to be easily read by a passing motorist and post such signs at the locations specified in subsection (b) of this section.
- (b) The "No loud noise" signs shall be posted at the following locations, and in the case of streets connecting to an arterial road as designated by St. Louis County, Missouri, the sign shall be erected on the connector street approximately fifty (50) feet from its intersection with the arterial road. The locations are as follows:

Northridge Hills at Old Halls Ferry Road ("OHF")	Nordell Court at OHF
Rolling Hills Drive at OHF	Black Jack Court at Parker Road
Bristol Rock at OHF	Craigmont at Parker Road
Marne at Old Jamestown Road	Patricia Ridge at Old Halls Ferry Road
Wensley Road at Parker Road	Evelynaire at Old Halls Ferry Road
Wolverton at Old Jamestown Road	Jamestown Ridge at Mourville Court

Jerries Lane at Trail Oaks	Old Jamestown Forest at Old Jamestown Road
Trailbend at Old Jamestown Road	Parkton at Old Jamestown Road
Latonka at Patricia Ridge	Orley at Old Jamestown Road
Sherwood Creek at OHF	Marne at Old Jamestown (other side)
Paddock Point at OHF	Parker at Centerbrook
Country Club Court at OHF	Meuse at Old Jamestown Road
Parkwood Lane at Parker Road	
Bielefeld at Parker Road	

(Ord. No. 882, § 1, 4-18-06)

Sec. 11-43. - Unlawful assembly.

It shall be unlawful for any two (2) or more persons to assemble together with intent or, upon being assembled, to mutually agree to do any unlawful act, with force or violence against the property of this city or the person or property of another or against the peace or to the terror of others as well as to make any movement or preparation therefor.

(Ord. No. 198, § 4, 12-5-78)

**State Law reference—** Unlawful assembly, RSMo § 574.040.

Sec. 11-44. - Refusal to disperse.

No person shall loiter and refuse to disperse or vacate any premises when requested to do so by the marshal or any police officer of the city.

(Ord. No. 198, § 10, 12-5-78)

**State Law reference—** Refusal to disperse, RSMo § 574.060.

Sec. 11-45. - Throwing dangerous missiles.

No person shall throw or in any way propel any dangerous missile of any kind upon or at any property, real or personal, or upon or at any person or group of persons.

(Ord. No. 198, § 5, 12-5-78)

Sec. 11-46. - Discharge of instruments that propel projectiles; discharge of firearms.

(a) It shall be unlawful to discharge, fire or shoot any shotgun, rifle, revolver, pistol, or whatsoever type of firearm using lead slugs, bullets, pellets, powder, shots or any other projectiles whether discharged or shot by other motive power, within the city, provided, however, that nothing herein shall apply to

officers of the law who are authorized to carry and discharge, when necessary, firearms.

- (b) It shall be unlawful to discharge, fire or shoot any bow and arrow, cat rifle, BB gun, pellet gun, rubber band or spring operated gun, paintball gun, or to shoot any pebble, bullet, slug, arrow or other hard substance by means of a sling, crossbow, rubber band, pea shooter, or bow or any other means.
- (c) Subsection (b) shall not apply to one's own property or premises when such instrument or weapon can be fired or operated in such a manner to prevent the projectile from traversing any ground outside the limits of property owned or controlled by such person; provided, further, that one (1) may fire or operate any instrument governed by subsection (b) on property owned or controlled by another person when accompanied by said person, or with the same person's written permission when such instrument or weapon can be fired or operated in such a manner to prevent the projectile from traversing any grounds outside the limits of such person's property.
- (d) The provisions of this section shall not apply to the discharge of blank cartridges in theater performances or sporting events, nor to the firing of salutes by firing squads at military ceremonies.
- (e) Nothing in this section is intended to impede or limit any rights of a person to use deadly force under Missouri's "Castle Doctrine," RSMo. §§ 563.011—563.031.

(Ord. No. 70, § 1, 5-22-72; Ord. No. 607, § 1, 3-18-97; Ord. No. 1076, § 1, 8-18-15)

Sec. 11-47. - Sleeping in public.

It shall be unlawful for any person to be asleep in or upon any public street or public place within the city; or upon any private property not his own nor belonging to the person with whom he may live, and being unable to show the permission of the owner of such property.

(Ord. No. 198, § 13, 12-5-78)

**Cross reference—** Possession, etc., of alcoholic beverages in parks, § 14-45.

**State Law reference—** Driving while intoxicated, RSMo § 577.010 et seq.; public drunkenness, RSMo. § 578.010.

Sec. 11-48. - Begging.

It shall be unlawful for any person to beg for personal gain in the city.

(Ord. No. 198, § 12, 12-5-78)

Sec. 11-49. - Misrepresenting age to obtain intoxicating liquor and nonintoxicating beer.

Any person of the age of seventeen (17) and under the age of twenty-one (21) years who shall represent that he or she has attained the age of twenty-one (21) years for the purpose of purchasing, asking for or in any way receiving any nonintoxicating beer or intoxicating liquor, except in cases authorized by law, shall upon conviction be deemed guilty of a misdemeanor.

(Ord. No. 275, § 1, 1-18-83)

**Cross reference—** Furnishing alcoholic beverages to minors, § 4-52.

Sec. 11-50. - Purchasing and possession of alcohol by minors.

Any person under the age of twenty-one (21) years who purchases or attempts to purchase or has in his or her possession any intoxicating liquor or any nonintoxicating beer shall upon conviction be deemed guilty of a misdemeanor.

(Ord. No. 275, § 2, 1-18-83)

**Cross reference**— Furnishing alcoholic beverages to minors, § 4-52.

Sec. 11-51. - Juveniles misrepresenting age.

Any person under the age of seventeen (17) years who shall represent that he or she has attained the age of twenty-one (21) years for the purpose of purchasing, asking for, attempting or in any way receiving any intoxicating liquor, excepting cases authorized by law, may be considered a delinquent child and may be dealt with in accordance with the provisions of Chapter 211 of the Missouri Revised Statutes.

(Ord. No. 275, § 3, 1-18-83)

**Cross reference**— Furnishing alcoholic beverages to minors, § 4-52.

Sec. 11-52. - Assault.

A person commits the crime of assault if:

- (1) He either attempts to cause or recklessly causes physical injury to another person; or
- (2) With criminal negligence, he causes physical injury to another person by means of a deadly weapon; or
- (3) He purposely places another person in apprehension of immediate physical injury; or
- (4) He recklessly engages in conduct which causes a grave risk of death or serious physical injury to another person; or
- (5) He knowingly causes physical contact with another person which the other person regards as offensive or provocative.

(Ord. No. 713, § 2, 6-5-01)

**Editor's note**— Section 1 of Ord. No. 654, adopted May 4, 1999, revoked § 11-52 which pertained to loud noise and derived from Ord. No. 578, adopted Oct. 3, 1995. See §§ 11-42—11-42.2 for similar provisions.

Sec. 11-53. - Reserved.

Sec. 11-54. - Sale of tobacco products to minors.

(a) *Definitions.* For the purposes of this section, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular and words in the singular include the plural. The word "shall" is always mandatory and not merely directory.

- (1) *Minor.* A person under the age of eighteen (18).
- (2) *Person.* An individual, partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any agency, board, department or bureau of the state or federal government, or any other legal entity which is recognized by law as the subject of rights and duties.
- (3) *Proof of age.* A driver's license or other generally accepted means of identification that contains a picture of the individual and appears on its face to be valid.
- (4) *Rolling papers.* Paper designed, manufactured, marketed, or sold for use primarily as a wrapping or enclosure for tobacco, which enables a person to roll loose tobacco into a smokable cigarette.
- (5) *Sample.* A tobacco product distributed to members of the general public at no cost or at nominal cost for product promotional purposes.

- (6) *Sampling*. The distribution to members of the general public of tobacco product samples.
- (7) *Tobacco products*. Any substance containing tobacco leaf, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco, or dipping tobacco.
- (8) *Vending machine*. Any mechanical electric or electronic, self-service device which, upon insertion of money, tokens or any other form of payment, dispenses tobacco products or rolling papers.
- (b) *Prohibitions*.
  - (1) No person shall sell or distribute any tobacco product or rolling papers to any minor. This subsection shall not apply to the distribution by family members on property that is not open to the public.
  - (2) The owner of an establishment at which tobacco products or rolling papers are sold at retail or through vending machines shall cause to be prominently displayed in a conspicuous place at every display from which tobacco products are sold and on every vending machine where tobacco products are purchased a sign that shall:
    - a. Contain in red lettering at least one-half-inch high on a white background the following: "It is a violation of state law for cigarettes or other tobacco products to be sold to any person under the age of eighteen"; and
    - b. Include a depiction of a pack of cigarettes at least two (2) inches high defaced by a red diagonal diameter of a surrounding red circle, and the words "Under 18".
  - (3) A person selling or otherwise distributing tobacco products, rolling papers or tobacco product samples shall require proof of age from a prospective purchaser or recipient if an ordinary person would conclude on the basis of appearance that such prospective purchaser or recipient may be under the age of eighteen (18).
  - (4) If a sale is made by an employee of the owner of an establishment in violation of this section, the employee shall be guilty of an offense as established herein. If a vending machine is in violation of this section, the owner of the establishment where said vending machine is located shall be guilty of an offense as established herein. If the employee of a company conducting a sampling distributes a sample, such employee shall be guilty of an offense as established herein.
  - (5) Reasonable reliance on proof of age or on the appearance of the purchaser or recipient shall be a defense of any action for violation of this section. No person shall be liable for more than one violation of this section on any single day.
  - (6) It shall be unlawful for any minor to purchase, cause to be purchased, or in any manner obtain tobacco products or rolling papers, whether in exchange for monetary consideration or otherwise. This subsection shall not apply to the distribution of same by family members on property that is not open to the public.
- (c) *Penalties*. The penalty for violation of this section shall be as provided in section 1-13 of the Code of Ordinances.

(Ord. No. 641, § 1, 10-20-98)

Sec. 11-55. - Unlawful use of weapons.

- (a) A person commits the offense of unlawful use of weapons if he or she knowingly:
  - (1) Carries concealed upon or about his or her person a knife, a firearm, a blackjack or any other weapon readily capable of lethal use;
  - (2) Sets a spring gun;

Discharges or shoots a firearm into a dwelling house, a railroad train, boat, aircraft, or motor vehicle as defined in section 302.010, R.S.Mo., or any building or structure used for the assembling of people;

- (4) Exhibits, in the presence of one or more persons, any weapon readily capable of lethal use in an angry or threatening manner;
  - (5) Possesses or discharges a firearm or projectile weapon while intoxicated;
  - (6) Discharges a firearm within one hundred (100) yards of any occupied school house, courthouse, or church building;
  - (7) Discharges or shoots a firearm at a mark, at any object, or at random, on, along or across a public highway or discharges or shoots a firearm into any outbuilding;
  - (8) Carries a firearm or any other weapon readily capable of lethal use into any church or place where people have assembled for worship, or into any school, or into any election precinct on any election day, or into any building owned or occupied by any agency of the federal government, state government, or political subdivision thereof;
  - (9) Discharges or shoots a firearm at or from a motor vehicle, as defined in section 301.010, R.S.Mo., discharges or shoots a firearm at any person, or at any other motor vehicle, or at any building or habitable structure, unless the person was lawfully acting in self-defense; or
  - (10) Carries a firearm, whether loaded or unloaded, or any other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any function or activity sponsored or sanctioned by school officials or the district school board.
- (b) Subdivisions (1), (3), (4), (6), (7), (8), (9) and (10) of subsection (a) of this section shall not apply to or affect any of the following:
- (1) All state, county and municipal peace officers possessing the duty and power of arrest for violation of the general criminal laws of the state or for violation of ordinances of counties or municipalities of the state, whether such officers are within or outside their jurisdictions or on or off duty, or any person summoned by such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
  - (2) Wardens, superintendents and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime;
  - (3) Members of the armed forces or National Guard while performing their official duty;
  - (4) Those persons vested by Article V, Section 1 of the Constitution of Missouri with the judicial power of the state and those persons vested by Article III of the Constitution of the United States with the judicial power of the United States, the members of the federal judiciary;
  - (5) Any person whose bona fide duty is to execute process, civil or criminal;
  - (6) Any federal probation officer;
  - (7) Any state probation or parole officer, including supervisors and members of the board of probation and parole;
  - (8) Any corporate security advisor meeting the definition and fulfilling the requirements of the regulations established by the board of police commissioners under Section 84.340, R.S.Mo.; and
  - (9) Any coroner, deputy coroner, medical examiner or assistant medical examiner.
- (c) Subdivisions (1), (5), (8), and (10) of subsection (a) of this section do not apply when the actor is transporting such weapons in a nonfunctioning state or in an unloaded state when ammunition is not readily accessible or when such weapons are not readily accessible. Subdivision (1) of subsection (a)

of this section does not apply to any person twenty-one years of age or older transporting a concealable firearm in the passenger compartment of a motor vehicle, so long as such concealable firearm is otherwise lawfully possessed, nor when the actor is also in possession of an exposed firearm or projectile weapon for the lawful pursuit of game, or is in his or her dwelling unit or upon premises over which the actor has possession, authority or control, or is traveling in a continuous journey peaceably through this state. Subdivision (10) of subsection (a) of this section does not apply if the firearm is otherwise lawfully possessed by a person while traversing school premises for the purposes of transporting a student to or from school, or possessed by an adult for the purposes of facilitation of a school-sanctioned firearm-related event.

- (d) Subdivisions (1), (8), and (10) of subsection (a) of this section shall not apply to any person who has a valid concealed carry endorsement issued pursuant to section 571.094, R.S.Mo., or a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state.
- (e) Subdivisions (3), (4), (5), (6), (7), (8), (9) and (10) of subsection (a) of this section shall not apply to persons who are engaged in a lawful act of defense pursuant to section 563.031, R.S.Mo.
- (f) Nothing in this section shall make it unlawful for a student to actually participate in school-sanctioned gun safety courses, student military or ROTC courses, or other school-sponsored firearm-related events, provided the student does not carry a firearm or other weapon readily capable of lethal use into any school, onto any school bus, or onto the premises of any other function or activity sponsored or sanctioned by school officials or the district school board.

(Ord. No. 812, § 2, 4-6-04)

#### Sec. 11-56. - Concealed weapons.

- (a) No person who has been issued a concealed carry endorsement by the Missouri Director of Revenue under Section 571.094, R.S.Mo., or who has been issued a valid permit or endorsement to carry concealed firearms issued by another state or political subdivision of another state, shall, by authority of that endorsement or permit, be allowed to carry a concealed firearm or to openly carry a firearm into:
  - (1) Any police station without the consent of the officer in charge thereof. Possession of a firearm in a vehicle on the premises of the police station shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
  - (2) Within twenty-five (25) feet of any polling place on any election day. Possession of a firearm in a vehicle on the premises of the polling place shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
  - (3) The facility of any adult or juvenile detention or correctional institution, prison or jail. Possession of a firearm in a vehicle on the premises of any adult, juvenile detention, or correctional institution, prison or jail shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
  - (4) Any building owned, leased or controlled by the city which is clearly identified by signs posted at the entrance to the building or at the restricted area to indicate that carrying a concealed weapon in the building or in a restricted area is prohibited. However, firing ranges, any building used for public housing by private persons, and any private dwellings owned, leased or controlled by the city are exempted from this restriction unless carrying of a firearm is otherwise prohibited by federal law. All persons violating this subdivision shall be denied entrance to the building or ordered to leave the building. and if anv person refuses to leave the premises. such person shall

be deemed to be trespassing upon city property and shall be subject to the penalties prescribed under section 1-13 of the Black Jack Code of Ordinances in addition to being issued a citation for violation of this section as provided for herein. If such persons are employees of the city, they may also be subjected to disciplinary measures;

- (5) Any establishment licensed to dispense intoxicating liquor or non-intoxicating beer for consumption on the premises, which portion is primarily devoted to that purpose without the consent of the owner or manager. The provisions of this subdivision shall not apply to the licensee of said establishment. The provisions of this subdivision shall not apply to any bona fide restaurant open to the general public having dining facilities for not less than fifty (50) persons and that receives at least fifty-one (51) percent of its gross annual income from the dining facilities by the sale of food. This subdivision does not prohibit the possession of a firearm in a vehicle on the premises of the establishment and shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises. Nothing in this subdivision authorizes any individual who has been issued a concealed carry endorsement to possess any firearm while intoxicated;
- (6) Any place where the carrying of a firearm is prohibited by federal law;
- (7) Any higher education institution or elementary or secondary school facility without the consent of the governing body of the higher education institution or a school official or the district school board. Possession of a firearm in a vehicle on the premises of any higher education institution or elementary or secondary school facility shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (8) Any portion of a building used as a child care facility without the consent of the manager. Nothing in this subdivision shall prevent the operator of a child care facility in a family home from owning or possessing a firearm or a driver's license or nondriver's license containing a concealed carry endorsement;
- (9) Any gated area of an amusement park. Possession of a firearm in a vehicle on the premises of the amusement park shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (10) Any church or other place of religious worship without the consent of the minister or person or persons representing the religious organization that exercises control over the place of religious worship. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises;
- (11) Any private property whose owner has posted the premises as being off-limits to concealed firearms by means of one (1) or more signs displayed in a conspicuous place of a minimum size of eleven (11) inches by fourteen (14) inches with the writing thereon in letters of not less than one (1) inch. The owner, business or commercial lessee, manager of a private business enterprise, or any other organization, entity, or person may prohibit persons holding a concealed carry endorsement from carrying concealed firearms on the premises and may prohibit employees, not authorized by the employer, holding a concealed carry endorsement, from carrying concealed firearms on the property of the employer. If the building or the premises are open to the public, the employer of the business enterprise shall post signs on or about the premises if carrying a concealed firearm is prohibited. Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the

vehicle is on the premises. An employer may prohibit employees or other persons holding a concealed carry endorsement from carrying a concealed firearm in vehicles owned by the employer;

(12) Any sports arena or stadium with a seating capacity of five thousand (5,000) or more.

Possession of a firearm in a vehicle on the premises shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises; or

(13) Any hospital accessible by the public. Possession of a firearm in a vehicle on the premises of a hospital shall not be a criminal offense so long as the firearm is not removed from the vehicle or brandished while the vehicle is on the premises.

- (b) Carrying of a concealed firearm in a location prohibited by this section by any individual who holds concealed carry endorsement issued pursuant to Section 571.094, RSMo., shall not be a criminal act but may subject the person to denial to the premises or removal from the premises. If such person refuses to leave the premises and a peace officer is summoned, such person may be issued a citation for a violation of this section in an amount not to exceed one hundred dollars (\$100.00) for the first offense in addition to citation(s) for violation(s) of other provisions of the Black Jack Code of Ordinances. If a second citation for a similar violation of this section occurs within a six-month period, such person shall be fined an amount not to exceed two hundred dollars (\$200.00) and his or her endorsement to carry concealed firearms shall be suspended for a period of one (1) year. If a third citation for a similar violation of this section is issued within one (1) year of the first citation such person shall be fined an amount not to exceed one thousand dollars (\$1,000.00) and shall have his or her concealed carry endorsement revoked and such person shall not be eligible for a concealed carry endorsement for a period of three (3) years. Upon conviction of charges arising from a citation issued pursuant to this subsection, the court shall notify the sheriff of the county which issued the certificate of qualification for a concealed carry endorsement and the department of revenue. Nothing contained herein shall prohibit the issuance of citations for violations of any other provisions of the Black Jack Code of Ordinances.
- (c) Any person issued a concealed carry endorsement pursuant to Section 571.094, RSMo., shall carry the concealed carry endorsement at all times the person is carrying a concealed firearm and shall display the concealed carry endorsement upon the request of any peace officer. Failure to comply with this subsection shall not be a criminal offense but the concealed carry endorsement holder may be issued a citation for an amount not to exceed thirty-five dollars (\$35.00).

(Ord. No. 812, § 2, 4-6-04; Ord. No. 896, § 1, 12-5-06)

#### Sec. 11-57. - Funeral protests prohibited

(a) Every citizen may freely speak, write and publish the person's sentiment on all subjects, being responsible for the abuse of the right, but no person shall picket or engage in other protest activities, nor shall any association or corporation cause picketing or other protest activities to occur within three hundred (300) feet of any residence, cemetery, funeral home, church, synagogue, or other establishment during or within one (1) hour before or one (1) hour after the conducting of any actual funeral or burial service at that place.

(b) As used in the section, "other protest activities" means any action that is disruptive or undertaken to disrupt or disturb a funeral or burial service.

(c)

As used in the section, "funeral" and "burial service" mean the ceremonies and memorial services held in conjunction with the burial or cremation of the dead, but this section does not apply to processions that are in transit beyond any three hundred (300) feet zone that is established under subsection (a) above.

(Ord. No. 1049, § 1, 3-5-13)

Secs. 11-58—11-60. - Reserved.

#### ARTICLE IV. - OFFENSES AGAINST PUBLIC MORALS

Sec. 11-61. - Lewd and immoral conduct.

- (a) A lewd or lascivious act is any actual or simulated sexual conduct, including acts of masturbation, homosexual or heterosexual intercourse, sodomy, sexual bondage, sadomasochism, bestiality, fondling or erotic touching of human genitalia, pubic regions, buttocks, or female breasts.
- (b) No person shall commit or offer to agree to commit a lewd or lascivious act in or near any public place or any place frequented by the public, or commit or offer to commit any act of heterosexual or homosexual prostitution.
- (c) No person shall secure or offer another for the purpose of committing a lewd or lascivious act in or near any public place or any place frequented by the public, or any act of heterosexual or homosexual prostitution.
- (d) No person shall be in or near any place frequented by the public or any public place for the purpose of inducing, enticing or procuring another to commit a lewd or lascivious act or an act of heterosexual or homosexual prostitution.
- (e) No person shall make a meretricious display in or near any public place, any place frequented by the public or any place open to the public view.
- (f) No person shall knowingly transport any person to any public or publicly frequented place for the purpose of committing a lewd or lascivious act or to any place for the purpose of committing or offering to agree to commit any act of heterosexual or homosexual prostitution.
- (g) No person shall knowingly receive, offer or agree to receive any person into any public place or building or publicly frequented place or building for the purpose of performing a lewd or lascivious act or any place or building for the purpose of performing an act of prostitution or knowingly to permit any person to remain in any place or building for the purpose of committing an act of heterosexual or homosexual prostitution.
- (h) No person shall direct or offer to direct any person to any public or publicly-frequented place or building for the purpose of committing any lewd or lascivious act or any place or building for the purpose of committing an act of heterosexual or homosexual prostitution.
- (i) No person shall aid, abet, allow, or permit or participate in the commission of any of the acts prohibited in subsections (a) through (h) above.
- (j) No person shall frequent or loiter in any tavern, cabaret or nightclub, with the purpose of soliciting any other person to purchase drinks. No proprietor, bartender, manager or operator of any such establishment shall allow the presence in any such establishment of any person who violates the provision of this section.

(Ord. No. 198, § 287, 12-5-78; Ord. No. 394, § 1, 12-15-87)

**State Law reference—** Sexual misconduct, RSMo. § 566.090; prostitution, RSMo. § 567.010 et seq.

Sec. 11-62. - Peeping toms.

- (a) No person shall perform such acts as will make him a "peeping tom" on or about the premises of another, or go upon the premises of another for the purpose of becoming a "peeping tom."
- (b) "Peeping toms" as used in this section means one who peeps through windows or doors, or other like places, situated on or about the premises of another for the purpose of spying upon or invading the privacy of persons spied upon without the consent of the persons spied upon. It is not a necessary element of this offense that the "peeping tom" be upon the premises of the person being spied upon.

(Ord. No. 198, § 29(B), 12-5-78; Ord. No. 394, § 1, 12-15-87)

Sec. 11-63. - Indecent exposure.

- (a) A person commits the offense of indecent exposure if he or she knowingly exposes his or her genitals under circumstances in which he knows that his conduct is likely to cause affront or alarm.
- (b) Indecent exposure is an offense.
- (c) The provisions of RSMo. sections 566.010, 566.020 shall apply to this section.

(Ord. No. 198, § 29(A), 12-5-78; Ord. No. 394, § 1, 12-15-87)

**State Law reference**— Similar provisions, RSMo. § 566.130.

Sec. 11-64. - Sexual misconduct with minors.

No person in this city in the presence of any minor shall indulge in any lewd or lascivious conduct or other conduct within the presence of such minor intended to cause or invite sexual stimulation or gratification; or publicly expose his or her person to such minor in an obscene or indecent manner; or by language, sign or touching such minor, suggest or refer to any lewd or lascivious act, or detain or divert such minor with the intent to perpetrate any of the aforesaid acts.

(Ord. No. 198, § 29(C), 12-5-78; Ord. No. 394, § 1, 12-15-87)

Sec. 11-65. - Gambling, etc.

No person shall set up or keep any gaming table or gambling device at which any game of chance is being or may be played for money and no person shall at any such table or device or at any game of chance bet, win or lose any money either by the use of specie or by means of anything representing the same. No person shall allow any such gaming table or gambling device at which any game of chance may be played to be set or used on or in any premises in his possession or under his control, however, nothing in this section shall be construed to prohibit, limit or modify the right to sell, transfer, or possess Missouri State lottery tickets or other devices as authorized by Revised Statutes of Missouri sections 313.200 through 313.710 (1986), as revised and amended.

(Ord. No. 198, § 31, 12-5-78; Ord. No. 394, § 1, 12-15-87)

**State Law reference**— Gambling generally, RSMo. § 572.010 et seq.

Secs. 11-66—11-80. - Reserved.

ARTICLE V. - OTHER OFFENSES

Sec. 11-81. - Parental neglect of minors.

- (a) No parent shall knowingly permit, encourage, aid or cause a minor to commit a criminal act nor engage in any conduct which would be injurious to the minor's morals or health.
- (b)

No parent shall fail to exercise customary and effective control over a minor so as to contribute to, cause or tend to cause a minor to commit a criminal act.

- (c) Whenever a minor shall be arrested or detained for the commission of any criminal act within the city, the city law enforcement officials shall immediately notify the minor's parent of the arrest or detention and shall advise the parent of his responsibility under this Ordinance. A record of said notifications shall be kept by the city police department and by other appropriate police officials.
- (d) For the purpose of this section, the following words and phrases are defined as follows:
  - (1) *Parent*: Mother, father, legal guardian or any person having the care or custody of a minor.
  - (2) *Minor*: Any person under the age of seventeen (17).
  - (3) *Criminal act*: An act which violates the statutes of the United States, the statutes of the state or the ordinances of the city including moving traffic violations.
- (e) Any parent who shall violate subsection (a) or (b) above with respect to a minor after having received one (1) notice from the city law enforcement officials as provided in subsection (c) above with respect to said minor shall be guilty of an offense.

(Ord. No. 50, §§ 1—4, 9-7-71; Ord. No. 901, § 1, 2-6-07)

**State Law reference—** Contributing to delinquency, RSMo. § 211.421.

Sec. 11-82. - Curfew for minors.

- (a) It shall be unlawful for any minor under the age of seventeen (17), to be on or about the streets, highways, sidewalks, public places, vacant lots or other unsupervised places, between the hours of 11:00 p.m. and 6:00 a.m., except on Fridays and Saturdays, when the hours shall be 12:00 midnight and 6:00 a.m. of the following day and on official holidays falling on Monday through Fridays when the time shall be midnight of the preceding day and 6:00 a.m. of the holiday; provided, however, that the provision of this subsection shall not apply to a minor accompanied by his or her parent, legally appointed guardian or other authorized adult or where the minor is upon an emergency errand or legitimate business as directed by his parent, legally appointed guardian or other authorized adult. Each violation of the provisions of this subsection shall constitute a separate offense.
- (b) It shall be unlawful for the parent, legally appointed guardian or other unauthorized adult having the care and custody of a minor under the age of seventeen (17) to knowingly or in the exercise of due care, should have known to permit such minor to loiter, idle, wander, stroll or play in or upon the streets, highways, sidewalks, public places, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 6:00 a.m., except on Fridays and Saturdays, when the hours shall be 12:00 midnight and 6:00 a.m. and on official holidays falling on Monday through Fridays when the time shall be midnight of the preceding day and 6:00 a.m. of the holiday, provided, however that the provisions of this subsection shall not apply to a minor accompanied by his parent, legally appointed guardian or other authorized adult or where the minor is upon an emergency errand or legitimate business as directed by his parent, legally appointed guardian or other authorized adult. Each violation of the provisions of this subsection shall constitute a separate offense.
- (c) Any authorized law enforcement officer of the city finding a minor violating the provisions of this section shall warn the minor to desist immediately from such violation and shall promptly report the violation to his superior officer who shall cause a written notice to be served upon the parent, legally appointed guardian or other authorized adult in charge of such minor, setting forth the manner in which this section has been violated. Any parent, legally appointed guardian or other authorized adult

in charge of such minor who shall knowingly or in the exercise of due care should have known, permit such minor again to violate the provisions of this section after receiving notice of the first violation shall be guilty of an offense.

(Ord. No. 109, §§ 1—3, 12-4-73; Ord. No. 544, § 1, 9-6-94)

Sec. 11-83. - False impersonation.

(a) A person commits the offense of false impersonation if he:

- (1) Falsely represents himself to be a public servant with purpose to induce another to submit to his pretended official authority or to rely upon his pretended official acts, and:
  - a. Performs an act in that pretended capacity; or
  - b. Causes another to act in reliance upon his pretended official authority; or
- (2) Falsely represents himself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this state with purpose to induce another to rely upon such representation, and:
  - a. Performs an act in that pretended capacity; or.
  - b. Causes another to act in reliance upon such representation.

(b) False impersonation is an offense.

**State Law reference—** Similar provisions, RSMo. § 575.120.

Sec. 11-84. - Interference with police officer and resisting arrest, escape, etc.

- (a) No person shall resist, hinder, obstruct, run away from, or otherwise interfere with the marshal or any police officer of this city in the discharge of his official duties. No person shall attempt to rescue any person from the custody of the marshal or any police officer and no person, while being lawfully detained or imprisoned or held in legal custody by the marshal, or by any police officer of this city, shall break away, escape or attempt to break away or escape from the marshal or any police officer of this city or from the jail of the city or any other place where such person is being detained by the marshal or any police officer of this city.
- (b) No person shall willfully and knowingly obstruct, resist, oppose or fail to obey a lawful command of any police officer of this city or city official charged with enforcement of this Code, or any other person duly authorized in executing or attempting to execute and carry into effect any provision of this Code or other ordinances of this city or order passed or made by the proper authorities of this city, or in serving or attempting to serve any legal writ, warrant, process or order issued by the mayor or other officer of this city.
- (c) Every person convicted of a violation of this Section 11-84 shall be punished by a fine of not less than one hundred dollars (\$100.00) and no more than one thousand dollars (\$1,000.00), or by detention in the county jail for not more than one (1) year, or by both such fine and imprisonment.

(Ord. No. 198, § 15, 12-5-78; Ord. No. 665, § 1, 11-16-99; Ord. No. 896, § 1, 12-5-06)

**State Law reference—** Resisting or interfering with arrest, RSMo. § 575.150; interference with legal process, RSMo. § 575.160; escape from confinement, RSMo. § 575.210; failure to return to confinement, RSMo. § 575.220.

Sec. 11-85. - False fire or police alarms.

No person shall intentionally give or make a false police or fire report, alarm or call within the city.

(Ord. No. 198, § 16, 12-5-78)

**Cross reference—** False alarm charge for alarms rendered through automatic alarm systems, § 3-9.

**State Law reference—** False reports, RSMo. § 575.080.

Sec. 11-86. - Signs advertising sale, etc., of residential property.

- (a) No person shall advertise residential property by means of any signs which are authorized hereunder unless the owner of the property has a bona fide intention to sell, rent or lease his property or premises or has a contract in writing with a real estate agent for any such purposes.
- (b) No person shall advertise residential property for sale, rent or lease with signs exceeding two (2) feet by three (3) feet in linear dimensions of height and width, nor shall such signs be illuminated.
- (c) No person shall display such signs anywhere in the city except upon the property which is for sale, rent or lease. "Open" signs or any other signs advertising or indicating that property in the city, or in any other area is for sale, rent or lease, wherever any such signs are located, are hereby prohibited, except that one (1) open sign may be displayed on the property which is for sale, rent, or lease only during the time the property is open to the public for inspection.
- (d) No person or company shall display more than one (1) sign for sale, rent or lease. Multiple lots, or additional parts of lots which are for sale, rent or lease along with the principal lot upon which a residential structure is located shall be considered part of such property or premises which is for sale, rent or lease, and the fact that such additional lots or parts thereof are for sale along with the principal lot shall not entitle such property or premises, or the owner thereof to erect additional signs by reason thereof. The only exception to this prohibition is the one (1) "open" sign which may be displayed as indicated in subsection (c).
- (e) Any person or company advertising the sale, rent or lease of property by means of any sign shall cause same to be removed within fourteen (14) days following the date of execution of a binding sales contract or lease agreement.
- (f) No person or company shall erect or add to an existing sign any marking or additional sign indicating the property is sold or leased.

(Ord. No. 213, §§ 2—7, 8-7-79)

**Cross reference—** Signs generally, Ch. 17.5.

Sec. 11-87. - Parking vehicles for sale.

It shall be unlawful for any person to park upon any highway, street, roadway, thoroughfare or private property within the city any vehicle displaying a sign advertising said vehicle for sale. The provisions of this section shall not apply to any motor vehicle dealer duly licensed as such to do business in the city.

(Ord. No. 198, § 19, 12-5-78)

**Cross reference—** Parking of vehicles on roadway for purposes of sale, § 20-344.

Sec. 11-88. - Using vehicle to display advertising.

It shall be unlawful for any person to park upon any street, highway, roadway, thoroughfare any vehicle for the primary purpose of displaying advertising,

(Ord. No. 198, § 20, 12-5-78)

**Cross reference—** Operation of vehicle for advertising purposes, § 20-167.

Sec. 11-89. - Dumping or spilling debris from vehicles.

No person shall drive, and no person shall direct or permit any driver to drive any motor vehicle or other moving vehicle over, along or upon any street, thoroughfare, highway or road within the city when any wheel or tire thereof is covered with dirt, gravel, clay or other material or substance so that the same might be dropped, spilled, spread or thrown upon said roadway.

(Ord. No. 198, § 23, 12-5-78)

Sec. 11-90. - Littering.

No person shall dump, discharge, cast out, throw or in any manner or fashion place from any vehicles, lawn maintenance equipment, receptacle or by hand any trash, rubbish, waste, garbage, refuse, dirt, rocks, wood, grass clippings, leaves or any other foreign matter, substance or material upon any public street or public or private property except as shall be necessary for the grading, leveling or improvement of said property, except when permitted by written permission of the director of public works, director of housing or his/her designee.

The minimum fine for a person convicted of a violation of this section shall be two hundred dollars (\$200.00), and if the violation occurs from a vehicle, the minimum fine shall be two hundred fifty dollars (\$250.00).

(Ord. No. 198, § 22, 12-5-78; Ord. No. 824, § 1, 7-6-04; Ord. No. 1077, § 1, 8-18-15)

**Cross reference—** Litter in parks, § 14-45; solid waste, Ch. 18.

(Ord. No. 198, § 22, 12-5-78; Ord. No. 824, § 1, 7-6-04)

Sec. 11-91. - Obstructing roads.

No person shall willfully or knowingly obstruct or damage any public road, thoroughfare, street or way by obstructing the side or cross drainage or ditches thereof, or by turning water upon such road or right-of-way, or by throwing or depositing brush, trees, stumps, logs or any other refuse or debris of any kind whatsoever, in said road, street, thoroughfare or way, or on the sides or in the ditches thereof, or by fencing across or upon the right-of-way of the same, or by planting any hedge, shrubs, trees or other objects or by erecting any advertising sign within the lines established for such road, or by changing the location thereof, or shall any person obstruct any road, highway, street, thoroughfare or way, or the drains thereof in any manner whatsoever.

(Ord. No. 198, § 22, 12-5-78)

Sec. 11-92. - Abandoned iceboxes, etc.

No person shall place, cause to be placed or allow to be placed or remain on his/her land or premises any abandoned, unattended or discarded icebox, refrigerator, stove, washer, dryer, dishwasher, humidifier, water tank, furnace, or any other container of any kind which has an airtight snap lock or other locking device thereon without first removing the doors, lid, or cover from such item and contacting the city's designated waste hauler to pick up the item on the next scheduled pickup day. In lieu of having the item picked up by the city's waste hauler, the item may be donated to organizations who will receive and pick up such items, but, in any event, the safety precautions detailed in this section must be followed, and the item may not remain outside of the premises for more than forty-eight (48) hours.

(Ord. No. 198, § 18, 12-5-78; Ord. No. 824, § 2, 7-6-04)

**Cross reference—** Nuisances, Ch. 13.

Sec. 11-93. - Storage of materials constituting health menace.

No person shall store any lumber, wood, coal, rock, dirt manure, ash heaps, rubbish or filth of any kind or any other material or substance upon any lot or premises within the city in such a manner as to endanger the public health or safety or in such a manner as any such materials could or would become offensive to human beings or detrimental to health.

(Ord. No. 198, § 24, 12-5-78)

**Cross reference—** Nuisances, Ch. 13.

Sec. 11-94. - Outdoor toilets and water closets.

No person shall maintain or allow to exist or to be maintained on or about any building or lot of ground in the city under his charge or control any privy, privy vault, commode, cesspool or water closet, except when approved in writing by the director of public works.

(Ord. No. 198, § 25, 12-5-78)

**Cross reference—** Plumbing, § 6-156 et seq.

Sec. 11-95. - Ponds and pools of water.

No person shall maintain any pond or pool of unwholesome, impure or offensive water located on any lot or piece of ground within the city.

(Ord. No. 198, § 26, 12-5-78)

**Cross reference—** Nuisances, Ch. 13.

Sec. 11-96. - Wells and cisterns.

No person shall maintain within the city any well or cistern, the water of which is shown by chemical analysis to be of an impure or unwholesome nature nor any unused well or cistern not covered, filled or completely barricaded.

(Ord. No. 198, § 27, 12-5-78)

Sec. 11-97. - Model glue, etc.

- (a) No person shall intentionally smell or inhale the fumes of any solvent, particularly toluol, or induce any other person to do so, for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes; except that this subsection shall not apply to the inhalation of any anesthesia for medical or dental purposes.
- (b) No person shall intentionally or willfully induce the symptoms of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of the senses or nervous system, distortion of audio, visual or mental processes by the use of any solvent, particularly toluol.

No person shall intentionally possess any solvent, particularly toluol, for the purpose of using it in the manner prohibited by subsection (a) and this subsection.

- (c) No person shall intentionally possess or buy any solvent, particularly toluol, for the purpose of inducing or aiding any other person to violate the provisions of subsections (a) and (b).
- (d) No person shall knowingly and intentionally sell or otherwise transfer possession of any solvent, particularly toluol, to any person for the purpose of causing a condition of, or inducing symptoms of, intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, paralysis, stupefaction, or dulling of senses or nervous system, or for the purpose of, in any manner, changing, distorting, or disturbing the audio, visual, or mental processes.

(Ord. No. 198, § 30, 12-5-78)

**State Law reference**— Similar provisions, RSMo. §§ 578.250—578-265.

Sec. 11-98. - Possession, manufacture or use of narcotic drugs, marijuana or controlled substances.

- (a) For the purposes of this section the following phrases shall have the meaning given to them pursuant to this subsection (a):
  - (1) *Controlled substance* as used herein shall have the same meaning given pursuant to the Controlled Substances Act.
  - (2) *Controlled Substances Act* as used herein means Chapter 195 of the Missouri Revised Statutes.
  - (3) *Drug paraphernalia* as used herein shall have the same meaning given pursuant to the Controlled Substances Act. In determining whether an object is drug paraphernalia, a court or other authority shall consider all the matters described in the Controlled Substances Act.
- (b)
  - (1) A person shall not have in his possession, custody, or control, any narcotic drug or marijuana as each are defined by the Controlled Substances Act.
  - (2) A person shall not sell, offer for sale, prescribe, administer, dispense, distribute, give or offer to give to any person a narcotic drug or marijuana as defined by the Controlled Substances Act.
  - (3) This subsection shall not apply to any person who may be specifically authorized by law to possess, sell, prescribe, administer, dispense, distribute or give away a narcotic drug or marijuana pursuant to the Controlled Substances Act.
  - (4) A summons in lieu may be issued for municipal court action where the quantity of marijuana in possession is under thirty-five (35) grams.
- (c)
  - (1) No person shall use, or possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act.
  - (2) No person shall deliver, possess with intent to deliver, or manufacture with intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act.
  - (3) No person shall place in any newspaper, magazine, handbill, or other publication any advertisement, knowing, or under circumstances where one reasonably should know, that the purpose of this advertisement, in whole or in part, is to promote the sale of objects designed or intended for use as drug paraphernalia.
- (d) The penalty for violation of this section shall be as provided in section 1-13 of the Code of Ordinances

(Ord. No. 546, § 1, 9-20-94)

Sec. 11-99. - Eviction of tenant; placement of evictee's property.

It shall be unlawful, in the event of a tenant's eviction from a house or apartment, for anyone to place the personal property of the evictee in any area other than the front yard or back yard of the house or apartment from which the eviction is made; that is, it shall be unlawful to place the personal property involved in the eviction on the street, sidewalk, or the area between the street and sidewalk in front or back of the house or apartment from which the eviction is made or on the street, sidewalk or the area between the street and sidewalk in front or in back of any other house or apartment in the city. Each day a violation of this code section continues shall be deemed a separate offense.

(Ord. No. 615, § 1, 5-20-97; Ord. No. 1034, § 1, 5-15-12)

Sec. 11-100. - Loitering.

(a) No person shall loiter on or near any public or private property in a manner and under circumstances manifesting the purpose to engage in either or both of the following:

(1) Any activity which shall constitute a nuisance under section 13-1(a) of this Code, including, but not limited to:

- a. Breaching the peace;
- b. Obstructing or attempting to obstruct the free, normal flow of vehicular traffic or the normal passage of pedestrian traffic upon public or private property; or
- c. Obstructing, molesting or interfering or attempting to obstruct, molest or interfere with any person lawfully on or in public or private property; or

(2) Any activity which shall constitute malicious mischief under section 11-20 of this Code.

(b) Public property, as the term is used in this section, shall include, but not be limited to the following: any park, street, alley, highway or thoroughfare; any street corner; any accommodation, including, but not limited to, hotels, motels, public buildings, restaurants or other places of business; any portion of private property utilized for public use; and any other publicly owned or maintained place.

(c) Any person, firm or corporation who violates the provisions of this section and is found guilty for said violation shall be fined not less than fifty dollars (\$50.00) or more than one thousand dollars (\$1,000.00) for each offense and a separate offense shall be deemed committed on each day during which a violation occurs or continues.

(Ord. No. 678, § 1, 4-4-2000; Ord. No. 686, § 1, 6-20-2000; Ord. No. 896, § 1, 12-5-06)

**Editor's note—** Section 1 of Ord. No. 678, adopted April 4, 2000, enacted provisions designated as § 11-99. Inasmuch as there already exists a § 11-99, said new provisions have been redesignated as § 11-100, to avoid duplication of numbering.

Sec. 11-101. - Harassment.

(a) A person commits the crime of harassment if they are engaging in a purposeful or knowing course of conduct involving more than one (1) incident that alarms or causes distress to another person and serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial and emotional distress and must actually cause substantial and emotional distress to that person. Such conduct may include but is not limited to:

(1) Following another about in a public place or places;

(2)

Peering in the window or lingering outside the residence of another, but does not include constitutionally protected activity;

- (3) Communicates by writing or by telephone a threat to commit any felonies;
- (4) Makes a telephone call or communicates in writing and uses coarse language offensive to one of average sensibilities;
- (5) Makes a telephone call anonymously; or
- (6) Makes repeated telephone calls.

For the purpose of this section an offense shall be deemed to have been committed in the city if either or any telephone involved in any of the prohibited acts above set forth is located in the city.

- (b) Every person convicted of a violation of this section shall be punished by a fine of not less than one dollar (\$1.00) and no more than one thousand dollars (\$1,000.00), or by detention in the county jail for not more than one (1) year, or by both such fine and imprisonment.

(Ord. No. 818, §§ 1, 2, 5-4-04; Ord. No. 896, § 1, 12-5-06)

#### Sec. 11-102. - Cyber harassment.

- (a) The following definitions shall apply in the interpretation and enforcement of this section:

- (1) Electronic communication shall mean the origination, emission, dissemination, transmission, or reception of data, writings, images, signals, sounds, or other intelligence or equivalence of intelligence of any nature, in whole or in part, over any communications system by any method, including but not limited to, a fiber optic, electronic, magnetic, optical, digital or analog method, electronic mail, internet-based communications, pager service or electronic text messaging.
- (2) Electronic communications device shall mean any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (3) Harass shall mean to engage in a course of conduct directed at a specific person that serves no legitimate purpose and (i) would cause a reasonable person to suffer substantial emotional distress, and that actually causes substantial emotional distress, or (ii) if the course of conduct is engaged in by a person of eighteen years of age or older with respect to a person under the age of eighteen, would cause a reasonable parent or guardian to fear for the well-being of their minor child or ward who is the target of such conduct.

- (b) A person commits the offense of cyber harassment if he or she:

- (1) With the intent to harass, transmits or causes the transmission of an electronic communication, or with knowledge of a person's intent to harass, knowingly permits an electronic communication to be transmitted from an electronic communication device under his or her control, to any other person; or
- (2) Transmits or causes the transmission of an electronic communication or knowingly permits an electronic communication to be transmitted from an electronic communications device under his or her control, with the intent to harass either by the direct action of the person initiating the communication or through the actions of a third party, which third party actions are instigated, initiated, prompted or brought about by the person's communication.

- (c)

Any offense committed under this section may be deemed to have been committed either at the place from which the electronic communication was made or at the place where the electronic communication was received.

- (d) Every person convicted of a violation of this section shall be punished by a fine of not less than one dollar (\$1.00) and no more than one thousand dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

(Ord. No. 954, § 1, 12-16-08)

Secs. 11-103—11-130. - Reserved.

#### ARTICLE VI. - IDENTITY THEFT

Sec. 11-131. - Commission of offense.

- (a) A person commits the offense of identity theft if he or she knowingly and with the intent to deceive or defraud obtains, possesses, transfers, uses, or attempts to obtain, possess, transfer or use, one or more means of identification not lawfully issued for his or her use. Any person accused of identity theft may be prosecuted in the municipal court provided:
- (1) The offense was committed wholly in or partly within the city; or
  - (2) The victim resides in the city; or
  - (3) The property obtained, or attempted to be obtained, was located in the city.
- (b) The term "means of identification" as used in this section includes, but is not limited to, the following:
- (1) Social Security numbers;
  - (2) Drivers license numbers;
  - (3) Checking account numbers;
  - (4) Savings account numbers;
  - (5) Credit card numbers;
  - (6) Debit card numbers;
  - (7) Personal identification (PIN) code;
  - (8) Electronic identification numbers;
  - (9) Digital signatures;
  - (10) Biometric data;
  - (11) Fingerprints;
  - (12) Passwords;
  - (13) Parent's legal surname prior to marriage;
  - (14) Passports, visas or work permits;
  - (15) Birth certificates;
  - (16) Insurance cards, policies or certificates; or
  - (17) Any other numbers or information that can be used to access a person's financial resources.
- (c) In addition to the provisions of subsection (e) of this section, the court may order that the defendant make restitution to any victim of the offense. Restitution may include payment for any costs, including attorney's fees, incurred by the victim:
- (1) In clearing the credit history or credit rating of the victim; and
  - (2)

In connection with any civil or administrative proceeding to satisfy any debt, lien, or other obligation of the victim arising from the actions of the defendant.

(d) This section shall not apply to the following activities:

- (1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;
- (2) A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction unless the identification or information is obtained with the intent to deceive or defraud;
- (3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
- (4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.

(e) Any person convicted of committing an offense established by this section shall be subject to punishment as follows:

- (1) If the offense does not result in the theft or appropriation of credit, money, goods, services, or other property, the person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), by imprisonment not to exceed ninety days (90) days, or both.
- (2) If the offense results in the theft or appropriation of credit, money goods, services or other property, the person shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), by imprisonment not to exceed ninety (90) days, or both.

(f) Nothing herein contained shall be construed as preventing or otherwise limiting a person's right to recovery of civil damages and attorneys fees in an action brought under RSMo. § 570.223.

(Ord. No. 855, § 1, 4-5-05; Ord. No. 896, § 1, 12-5-06)

Sec. 11-132. - Trafficking in stolen identities.

(a) A person commits the offense of trafficking in stolen identities when such person manufacturers, sells, transfers, purchases, or possesses with intent to sell or transfer means of identification or identifying information for the purpose of committing identity theft.

(b) Unauthorized possession of means of identification of five or more separate persons, shall be evidence that the identities are possessed with intent to manufacture, sell, or transfer means of identification or identifying information for the purpose of committing identity theft. In determining possession of five or more identification documents of the same person or possession of identifying information of five or more separate persons for the purposes of evidence pursuant to this subsection, the following do not apply:

- (1) The possession of his or her own identification documents;
- (2) The possession of the identification documents of a person who has consented to the person at issue possessing his or her identification documents.

(c) This section shall not apply to the following activities:

- (1) A person obtains the identity of another person to misrepresent his or her age for the sole purpose of obtaining alcoholic beverages, tobacco, going to a gaming establishment, or another privilege denied to minors;

(2)

A person obtains means of identification or information in the course of a bona fide consumer or commercial transaction unless the identification or information is obtained with the intent to deceive or defraud;

- (3) A person exercises, in good faith, a security interest or right of offset by a creditor or financial institution;
- (4) A person complies, in good faith, with any warrant, court order, levy, garnishment, attachment, or other judicial or administrative order, decree, or directive, when any party is required to do so.
- (d) Any person convicted of committing an offense established by this section shall be subject to punishment by a fine not to exceed one thousand dollars (\$1,000.00), by imprisonment not to exceed 90 days, or both, plus the cost of prosecution.

(Ord. No. 855, § 1, 4-5-05; Ord. No. 896, § 1, 12-5-06)

Sec. 11-133. - False impersonation.

- (a) A person commits the offense of false impersonation if such person:
  - (1) Falsely represents himself or herself to be a public servant with purpose to induce another to submit to his or her pretended official authority or to rely upon his or her pretended official acts; and
    - a. Performs an act in that pretended capacity; or
    - b. Causes another to act in reliance upon his or her pretended official authority; or
  - (2) Falsely represents himself or herself to be a person licensed to practice or engage in any profession for which a license is required by the laws of this state with purpose to induce another to rely upon such representation; and
    - a. Performs an act in that pretended capacity; or
    - b. Causes another to act in reliance upon such representation; or
  - (3) Upon being arrested, falsely represents himself or herself, to a law enforcement officer, with the first and last name, date of birth, or social security number, or a substantial number of identifying factors or characteristics as that of another person that results in the filing of a report or record of arrest or conviction for an infraction, misdemeanor, or felony that contains the first and last name, date of birth, and social security number, or a substantial number of identifying factors or characteristics to that of such other person as to cause such other person to be identified as the actual person arrested or convicted.
- (b) If a violation of subdivision (3) of subsection (a) of this section is discovered prior to any conviction of the person actually arrested for an underlying charge, then the prosecuting attorney, bringing any action on the underlying charge, shall notify the court thereof, and the court shall order the false-identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.
- (c) If a violation of subdivision (3) of subsection (a) of this section is discovered after any conviction of the person actually arrested for an underlying charge then the prosecuting attorney shall file a motion in the underlying case with the court to correct the arrest and court records after discovery of the fraud upon the court. The court shall order the false identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate identifying factors from the arrest and court records.

- (d) Any person who is the victim of a false impersonation and whose identity has been falsely reported in arrest or conviction records may move for expungement and correction of said records under the procedures set forth in RSMo § 610.123. Upon a showing that a substantial number of identifying factors of the victim were falsely ascribed to the person actually arrested or convicted, the court shall order the false identifying factors ascribed to the person actually arrested as are contained in the arrest and court records amended to correctly and accurately identify the defendant and shall expunge the incorrect and inaccurate factors from the arrest and court records.
- (e) Any person convicted of committing an offense established by this section shall be subject to punishment by a fine not to exceed one thousand dollars (\$1,000.00), by imprisonment not to exceed ninety (90) days, or both, unless the person represents himself to be a law enforcement officer, in which case any fine imposed shall not exceed one thousand dollars (\$1,000.00).

(Ord. No. 855, § 1, 4-5-05; Ord. No. 896, § 1, 12-5-06)

## Chapter 12 - MUNICIPAL COURT<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Definitions and rules of construction generally, § 1-2; penalty for violation of code, § 1-13; city prosecuting attorney, § 2-72.*

**State Law reference**— *Municipal courts, RSMo. § 479.010 et seq.*

Sec. 12-1. - Established; to be held by municipal judge; exception; jurisdiction.

- (a) There is hereby established in the city a court to be known as the municipal court, which shall be held by the municipal judge. Such court shall have exclusive original jurisdiction to hear and determine all cases charging offenses against ordinances of the city.
- (b) Notwithstanding the provisions contained in Sections 479.010 through 479.270, RSMo. the city herewith elects to retain its present police judge and its present prosecuting attorney, and its present police court with the boundaries of the city and operated under the auspices of the city rather than to have its ordinance violations heard and decided in the magistrate courts of the county.

(Ord. No. 163, Art. 1, § 1, 2-1-77; Ord. No. 196, § 1, 11-21-78)

Sec. 12-2. - Appointment, tenure and compensation of municipal judge.

The municipal judge shall be appointed by the mayor with the consent of a majority of city council by ordinance or resolution. The municipal judge shall serve until he is discharged by the mayor with the approval of the city council or by the city council on its own motion. The salary of the municipal judge shall be set by resolution of the city council.

(Ord. No. 196, § 4, 11-21-78; Ord. No. 391, § 1, 10-6-87; Ord. No. 527, § 1, 2-15-94)

Sec. 12-3. - Applicability of state law and court rules.

The proceedings in the municipal court shall be governed by this chapter, the Missouri Rules of Practice and Procedure in Municipal Courts (Rule 37.01—37.1174) as promulgated by the Supreme Court of Missouri, Sections 479.010 to 479.270 of the Missouri Revised Statutes, the rules promulgated by the presiding judge of the Circuit Court of St. Louis County under the authority granted said presiding judge in Subsection 5 of Section 479.020 of the Missouri Revised Statutes and the rules promulgated by the

municipal judge of the city. The rules promulgated by the presiding judge shall control where there is a conflict between the rules and any provision of this chapter or any other ordinance of the city relating to the municipal court and its procedures.

(Ord. No. 163, Art. 2, § 1, 2-1-77; Ord. No. 227, § 1, 1-15-80; Ord. No. 527, § 2, 2-15-94)

Sec. 12-4. - General duties of municipal judge.

- (a) The municipal judge shall perform such duties as may be prescribed by the laws of the state, or any ordinance of the city.
- (b) The municipal judge shall be conservator of the peace, and shall have exclusive original jurisdiction to hear and determine all ordinance violations. No change of venue shall be taken from him or granted by him in any case before him for the violation of any provision of any city ordinances. He shall keep a docket in which he shall enter every case commenced before him, and the proceedings therein; and he shall deliver such docket, and all books and papers pertaining to his office, to his successor in office.
- (c) The municipal judge shall have power to administer oaths and enforce due obedience to all orders, rules and judgments made by him within the scope of his authority, and may fine and imprison for contempt offered to him while holding court, in the same manner and to the same extent as the circuit court.
- (d) It shall be the duty of the municipal judge to make out and issue all processes of the court and sign the same as municipal judge and within the first three (3) days of every month he shall make out a list of all cases heard and tried before him during the preceding month, giving in each case the name of the defendant, the fine imposed, if any, the names of the defendants committed and cases appealed. He shall also report and include in such list the amount of fines collected, the amount of fines remitted by him, the fines collected by commitment and fines outstanding.

(Ord. No. 163, Art. 1, §§ 35—38, 2-1-77)

**State Law reference—** Municipal judges generally, RSMo. §§ 479.020, 479.070.

Sec. 12-5. - Public defender.

There is hereby established the office of the public defender of the municipal court of the city. The public defender shall be a lawyer licensed to practice by the state, and shall be appointed by the mayor, when he is notified by the municipal judge that a public defender is needed for a case, and shall be appointed by the mayor with the consent of the city council. His compensation for his duties shall be set by the mayor and approved by the city council. The duties of the public defender shall be to serve as counsel when appointed by the municipal judge of the city or the special judge of the city to represent persons appearing before the municipal court of the city and accused of a violation of the ordinances of the city which subjects them to the possibility of imprisonment; and which parties demonstrate to the satisfaction of the municipal judge, or the special judge, that they are unable to employ counsel on their own behalf and desire to have counsel appointed to represent them.

(Ord. No. 163, Art. 1, § 34, 2-1-77)

Sec. 12-6. - Appointment of prosecutor in absence of city attorney.

In the absence of the city attorney, or person prosecuting in his stead as appointed by resolution or ordinance, when any suit in which the city is plaintiff is about to be tried, the mayor may, if he deems it necessary, appoint someone to prosecute on behalf of the city, who shall, during the time he is so acting,

possess all the power vested in the city attorney. The same person shall not be appointed to serve as temporary prosecutor or substitute city attorney for more than three (3) court sessions in any one calendar year.

(Ord. No. 163, Art. 1, § 30, 2-1-77)

**Cross reference**— City prosecuting attorney, § 2-72.

Sec. 12-7. - City marshal and municipal court clerk.

- (a) Whenever the term "city marshal" appears in this chapter and the context permits, any other law enforcement official who is authorized to enforce the ordinances of the city shall have the right to act in place of the city marshal.
- (b) There is hereby created the position of municipal court clerk. The municipal court clerk job description shall be established by the personnel policy committee. The municipal court clerk shall be recommended for appointment by the mayor and shall be a full-time employee compensated on an hourly basis at a per-hour rate fixed by ordinance. The municipal court clerk shall be subject to the supervision of the mayor; provided, however, the municipal court clerk shall also be subject to the supervision of the municipal judge when the municipal court is in session and as otherwise required by state law. The municipal court clerk may be removed from office at will by recommendation of the mayor subject to final approval by two-thirds (2/3) vote of all the members of the city council.

(Ord. No. 163, Art. 1, § 39, 2-1-77; Ord. No. 525, § 1, 1-4-94; Ord. No. 673, § 1, 2-15-2000; Ord. No. 753, § 3, 5-21-02; Ord. No. 785, § 1, 3-4-03)

Sec. 12-8. - Sessions.

There may be a session of the municipal court every day in the week except Sunday, if necessary. All cases set for each day shall be tried on such day, at an hour fixed by the municipal judge, unless continued for the reasons set forth in Section 12-16 of this Code.

(Ord. No. 163, Art. 1, § 2, 2-1-77)

Sec. 12-9. - Information to be furnished court at beginning of each session.

It shall be the duty of the city marshal to furnish to the municipal court at the opening thereof at each session a statement showing the names of all persons arrested since the last session, the offense with which they are charged, the name of the officer who made the arrest and such further information as may be necessary, and all persons in custody shall be forthwith tried, if ready for trial. All other persons shall be tried in the order of which their names appear on the docket.

(Ord. No. 163, Art. 1, § 3, 2-1-77)

Sec. 12-10. - Complaint.

- (a) All prosecutions for the violation of municipal ordinances shall be instituted by information and may be based upon a complaint. The complaint and information shall be in the form prescribed as form 37.D and form 37.E, respectively, of the Missouri Supreme Court Rules, as may be amended from time to time.
- (b) In addition to the foregoing, complaints may be initiated by use of the uniform traffic citation forms sanctioned by the laws of the state or in any other form approved by law.
- (c)

Complaints and information filed as aforesaid may include any number of persons charged with the same offense, and no proceedings shall be dismissed or defendant discharged by reason of any informality or irregularity in any complaint, but such complaint or information may, by leave of court, at any time before or during trial, prior to the retirement of the jury or the finding of the municipal judge be amended without prejudice to the proceedings.

(Ord. No. 163, Art. 1, § 4, 2-1-77; Ord. No. 527, § 3, 2-15-94)

**State Law reference—** Complaints generally, RSMo. § 479.090.

Sec. 12-11. - Warrants; subpoenas.

Upon the filing of the complaint as provided in Section 12-10 of this Code, the municipal judge may issue a warrant reciting the offense substantially as charged in the complaint and directed to the city marshal, the sheriff, or any other peace officer of the county. The officer to whom such warrant is directed shall execute the same at any place within the county, and not elsewhere, unless the warrant is endorsed in the manner provided for warrants in criminal cases. Such warrants shall be executed by arresting the defendant therein named and bringing him before the municipal judge if such arrest is made while court is in session, or if the court is not then sitting, by taking him and holding him in custody until the next session of the court, unless he gives bail as provided by law. Upon the return of the warrant by the officer executing the same, the judge shall have been fully possessed of the case, and shall proceed to hear and determine the same, and shall issue subpoenas for witnesses and attachments to compel their attendance. No warrant shall be issued for any person lawfully arrested by the city marshal or policeman and then in custody, or at liberty under bond for his appearance, but the trial of such persons shall be had on the written complaint or statement of the officer by whom the arrest was made.

(Ord. No. 163, Art. 1, § 5, 2-1-77)

**State Law reference—** Warrants generally, RSMo. § 479.100; how witnesses are summoned, RSMo. § 479.160.

Sec. 12-12. - Bail.

- (a) Any person arrested for violation of any ordinance may be admitted to bail by executing a bond to the city, with sufficient security to be approved by the municipal judge, the municipal court clerk or any two (2) members of the city council, in the order named, in a sum not less than fifty dollars (\$50.00) nor more than three hundred dollars (\$300.00), conditioned that such person will appear on the day therein stated before the municipal court to answer to the charge against him. All bonds so taken shall forthwith be filed with the municipal judge by the officer approving and taking the same. Whenever any person shall be arrested and brought before the court, and for any cause the trial is postponed to a time certain, such person shall be required to enter into a recognizance with security, to be approved by the court at the time and place appointed, then and there to answer the complaint alleged against him. If any person arrested or brought before the court shall fail or refuse to enter into recognizance, he shall be committed to prison and held to answer the complaint against him.
- (b) Upon approval by the municipal judge or by a duly authorized agent of the county acting in accordance with the rules and regulations pertaining to release on recognizance without security as set by the county, a person may be released on his own recognizance without security.

(Ord. No. 163, Art. 1, § 6, 2-1-77; Ord. No. 525, § 2, 1-4-94)

Sec. 12-13. - Forfeiture of bond.

Whenever any defendant shall fail to appear according to the condition of any bond, or having appeared shall leave the municipal court without awaiting trial, such bond shall be deemed forfeited and the municipal judge shall cause the same to be prosecuted against the principal and sureties or against either of them alone. Such action shall be in the name of the city as plaintiff, and may be prosecuted before the judge, and all money recovered in any such action shall be paid into the city treasury to the credit of the general fund of the city. Judgments rendered under this section may be appealed to the circuit court in like manner and within the same time as appeals from magistrates are allowed in civil actions. The forfeiture of any recognizance may be set aside on the appearance of the defendant or upon his being brought into court by his sureties within ten (10) days from the judgement or forfeiture and upon payment of all costs that have accrued.

(Ord. No. 163, Art. 1, § 7, 2-1-77)

**State Law reference—** Recognizances and forfeitures, RSMo. § 479.210.

Sec. 12-14. - Presentment of prisoners at opening of court.

At the opening of the municipal court, the city marshal shall bring before it, for trial all persons then in custody for violation of any city ordinances, except, however, those whose cases have previously been continued to a later day, and for this purpose the keeper of the city jail shall deliver to the city marshal all prisoners in his custody whose cases have not been continued.

(Ord. No. 163, Art. 1, § 8, 2-1-77)

Sec. 12-15. - Jury trials.

- (a) Any person brought before the municipal court shall be entitled to a trial by jury for any ordinance violation if he demands it before the trial has begun, when required by state law, by case law or Supreme Court rule, which jury shall consist of six (6) persons, unless the parties agree to a lesser number. Upon a jury being demanded the municipal judge shall issue his venire returnable at the time the case is set for trial, and if it be made returnable forthwith, the case shall be put at the foot of the day's docket, and the court shall proceed to the trial of the next case in order. When the city marshal is related to the prosecutor or defendant in any suit, or the defendant shall file his affidavit that the marshal is so prejudiced against him that injustice may be done him in the selection of a jury, the judge shall issue his venire to some disinterested person, who shall first be sworn to faithfully and impartially execute the same. Jurors shall be sworn to well and truly try the matter in issue, and a true verdict to render according to the law and evidence.
- (b) Persons jointly charged in any complaint shall have a separate trial if they demand it, before the trial has begun or the jury been impaneled.

(Ord. No. 163, Art. 1, § 9, 2-1-77)

**State Law reference—** Jury trials, RSMo. §§ 479.130, 479.140.

Sec. 12-16. - Continuances generally.

When a case is first called for trial, if either party shall apply for a continuance owing to the absence of material witnesses, the municipal judge shall continue the case at his discretion to a day certain. If in its judgment sufficient cause is shown, the court shall grant a further continuance. Before any continuance is granted, however, the defendant may be required to enter into recognizance as provided in Section 12-12 of this Code.

(Ord. No. 163, Art. 1, § 10, 2-1-77)

Sec. 12-17. - When application for continuance to be made; filing of motions and pleas generally.

All applications for continuance shall be made at the opening of the municipal court on the day on which the case is set for trial, or when it is called for trial, and at no other time, unless by leave of the court. All motions for dismissal on account of informality or illegality in the papers or proceedings, and all other motions, not necessarily arising during the trial, and all pleas except "guilty" or "not guilty" shall be made and filed in writing and argued when the case is called for trial and at no other time.

(Ord. No. 163, Art. 1, § 11, 2-1-77)

Sec. 12-18. - Use of depositions.

Depositions taken in conformity with the laws of the state may be read in evidence in any case pending in the municipal court when the witness is dead, or is unable because of sickness or infirmity or absence from the city to be present at the trial.

(Ord. No. 163, Art. 1, § 12, 2-1-77)

Sec. 12-19. - Attendance of witnesses.

- (a) It shall be the duty of the municipal judge to summon all persons whose testimony shall be deemed essential as witnesses and to enforce their attendance by attachment, if necessary, but when a trial has been continued it shall not be necessary to summon any witness who was present at the continuance. In such case the judge shall verbally notify such witnesses present as either party may desire to attend on the day set for the trial, and enter their names on his docket and such verbal notice shall be valid as a summons.
- (b) Officers shall attend as witnesses against persons whom they have arrested without summons, and if they fail to appear at the time of trial, they may be attached and punished for contempt in like manner as witnesses summoned.

(Ord. No. 163, Art. 1, § 13, 2-1-77)

**State Law reference**— Similar provisions, RSMo. § 479.160.

Sec. 12-20. - Form of verdict; assessment of punishment.

The verdict of the jury shall be substantially in either of the following forms as the case may be: "we, the jury, find the defendant not guilty," and such verdict shall be signed by one of the jury as foreman thereof. If the jury finds the defendant guilty, they shall in their verdict assess his punishment, within the limits prescribed by ordinance, unless the same is specifically fixed.

(Ord. No. 163, Art. 1, § 14, 2-1-77)

**Cross reference**— General penalty for Code violations, § 1-13.

Sec. 12-21. - Judgment or conviction.

If the defendant pleads or is found guilty, the municipal judge shall declare and assess the punishment prescribed by ordinance according to his finding, or the verdict of the jury, and render a judgment accordingly. In no case shall a judgment of conviction be rendered except when sufficient legal evidence is given on public trial or upon a plea of guilty made in open court.

(Ord. No. 163, Art. 1, § 15, 2-1-77)

Sec. 12-22. - Issuance of execution and commitment for nonpayment of fine.

- (a) Upon the rendition of any judgment in the municipal court imposing a fine or penalty, if the defendant does not immediately pay the same, an execution and commitment shall be issued against the defendant for the amount of such fine or penalty and costs, the form of which shall be substantially as follows:

EXECUTION AND WARRANT OF COMMITMENT  
FOR FINE, SENTENCE AND COSTS

Execution and Warrant of Commitment for Fine, Sentence, and costs

No. \_\_\_\_\_

\_\_\_\_\_ 19 \_\_\_\_\_

CITY OF BLACK JACK, Plaintiff

vs.

\_\_\_\_\_, Defendant

\_\_\_\_\_

CHARGE:

\_\_\_\_\_

Fine \$ \_\_\_\_\_

Sentence \_\_\_\_\_

Total \$ \_\_\_\_\_

Paid on Account \$ \_\_\_\_\_

Committed On \_\_\_\_\_

Penal Record

CR. By Labor \_\_\_\_\_

CR. By Parole \_\_\_\_\_

CR. By Cash \$ \_\_\_\_\_

REMARKS: \_\_\_\_\_

Time of Release: \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_ Brought before me for release:

This \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

\_\_\_\_\_

CLERK

Age\_\_\_\_\_ Height\_\_\_\_\_ Ft.\_\_\_\_\_ In.\_\_\_\_\_

Married\_\_\_\_\_ Single\_\_\_\_\_ Widowed\_\_\_\_\_

Occupation \_\_\_\_\_

Residence \_\_\_\_\_

State of Missouri

City of Black Jack

SS.

Execution and warrant of-commitment for fine, sentence, and costs

To the City of Black Jack, Missouri, or any duly authorized peace officer of the State of Missouri.

WHEREAS, By the Judgement and sentence of Municipal Court, City of Black Jack, on the \_\_\_\_\_ Day of \_\_\_\_\_, 19\_\_\_\_\_ WITHIN \_\_\_\_\_ Named Defendant was fined \$\_\_\_\_\_ and sentenced to serve \_\_\_\_\_ imprisonment and assessed \$\_\_\_\_\_ costs for violation of Ordinance of said City. It is thereupon adjudged by said court that said City have and recover from said defendant said fine of \$\_\_\_\_\_ and costs of \$\_\_\_\_\_. And that defendant be imprisoned in the \_\_\_\_\_ of the City of Black Jack, or in the jail of the County of St. Louis, until said sentence is served and said fine and costs are paid, and you are therefore commanded to take the body of said defendant and forthwith commit same to the custody of jailer of the City of Black Jack, or the County of St. Louis, Missouri, who is hereby required to keep the body of said defendant, as required by law, for \_\_\_\_\_, and one day for each \$\_\_\_\_\_ of said fine and costs, assessed as aforesaid, or until said defendant be otherwise discharged by due course of law.

GIVEN UNDER MY HAND THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 19\_\_\_\_\_

\_\_\_\_\_  
(Appropriate Officer) of the \_\_\_\_\_ Court of the City of Black Jack, Missouri.

Form "A"

- (b) In the event the defendant proves to the satisfaction of the court that he is so destitute as to be unable to pay said fine, said fine shall be stayed to a time certain to be paid; the judge may continue to stay said fine until it is paid or until he is satisfied that the defendant can pay it, and if the defendant does not pay it, then an execution and commitment as set out above shall be issued.

(Ord. No. 163, Art. 1, § 16, 2-1-77)

**State Law reference—** Installment payment of fines, RSMo. § 479.240.

Sec. 12-23. - Confinement for failure to satisfy execution for nonpayment of fine.

Upon receiving the execution under section 12-22 of this Code, the city marshal shall immediately take the defendant into custody, and if the defendant does not, within five (5) hours, satisfy the execution, either by paying the same in money, or by discovering to the city marshal sufficient funds or chattels, the property of the defendant whereon to levy execution for debt and costs, the city marshal without delay shall convey said defendant to the city jail or the county jail and deliver him into custody of the jailer thereof, taking his receipt therefor endorsed upon the execution. At the time of such delivery the city marshal shall deliver to the jailer a true copy of the execution certified by himself, which shall be the warrant of the jailer for taking and keeping in his custody the body of the defendant until the execution shall be satisfied.

(Ord. No. 163, Art. 1, § 17, 2-1-77)

Sec. 12-24. - Disposition of proceeds of fines collected by city marshal.

The city marshal shall, within twenty-four (24) hours after each session of the municipal court, pay into the city treasury the full amount of all fines collected by him during the preceding session of the municipal court, for which he shall take a duplicate receipt, one of which he shall file with the municipal court clerk.

(Ord. No. 163, Art. 1, § 18, 2-1-77; Ord. No. 525, § 2, 1-4-94)

Sec. 12-25. - Discharge of defendant; dismissal of complaint.

- (a) Whenever anyone is found guilty of violating an ordinance, which violation, in the opinion of the municipal court, is trivial, he may, in the discretion of the court, be discharged. Whenever any person shall be brought before the court by complaint, and it shall be shown that since the filing of the complaint the cause of the complaint has been abated, the defendant may be discharged.
- (b) Whenever any person other than a city officer shall have caused the arrest of another for violation of any ordinance and the offense charged shall have affected solely or principally the person causing such arrest, the latter may, with the consent of the court when the case is called for trial, dismiss the complaint.

(Ord. No. 163, Art. 1, § 19, 2-1-77)

Sec. 12-26. - Appeals generally.

In all cases before the municipal judge arising under any ordinances of the city an appeal may be taken by the defendant from the judgment of the judge to the court having criminal jurisdiction, except from judgment on a plea of guilty. Such appeal shall be taken in the time and manner provided by the statutes in relation to appeals from judgment of magistrates in cases of misdemeanors. Upon such appeal the appellate court shall proceed with the cause in the same manner as provided in cases of appeals from judgments of magistrates in cases of misdemeanor and judgment of affirmance, dismissal and upon trial may be had, rendered and enforced as provided in the statutes relating to misdemeanors.

(Ord. No. 163, Art. 1, § 21, 2-1-77)

**State Law reference—** Appeals generally, RSMo. § 479.200.

Sec. 12-27. - Collateral security for fines and costs pending appeal.

Any defendant wishing to appeal from the judgment of the municipal court, and not being ready to enter into bonds may deposit with the municipal court clerk the amount of fine and costs imposed, which shall be received by the clerk as collateral security for such fine and costs until an appeal is perfected,

when it shall be returned to defendant; but if such appeal be not perfected within ten (10) days, the collateral shall be applied to satisfy the fine and costs imposed upon him.

(Ord. No. 163, Art. 1, § 20, 2-1-77; Ord. No. 525, § 2, 1-4-94)

Sec. 12-28. - Costs on appeal.

In all proceedings in which a fine or punishment is assessed by the municipal court of the city for violation of any ordinance to which the defendant takes exception and appeal from such court to the circuit court of the county, there shall be assessed as costs of such proceeding the amounts specified below:

- (1) In all appeals from fines or punishment assessed for all traffic offenses other than careless and imprudent operation of a motor vehicle while under the influence of alcohol, the taxable costs shall be fifty dollars (\$50.00), in addition to the cost deposit required by the circuit court.
- (2) In all other appeals from fines or punishment assessed for violations of any ordinance of the city, including careless and imprudent operation of a motor vehicle while under the influence of alcohol, the taxable costs shall be seventy-five dollars (\$75.00), in addition to the cost deposit required by the circuit court.

(Ord. No. 163, Art. 1, § 22, 2-1-77)

Sec. 12-29. - When deposits required from complainant.

The city's prosecuting attorney may, when he is satisfied that a complaint or information of a violation of any ordinance is made for vexation or without just cause, before commencing any proceeding, require the complainant or informant to deposit with the city marshal twenty-five dollars (\$25.00). The municipal judge may at any time after the filing of a statement by the city's prosecuting attorney, upon the motion of the defendant, require the deposit of such amount. The provisions of this section shall not apply to any report, complaint or information made by any officer of the city in the discharge of his duty.

(Ord. No. 163, Art. 1, § 23, 2-1-77)

**State Law reference—** Court costs, RSMo. § 479.260.

Sec. 12-30. - Malicious prosecution.

If, upon trial before the municipal judge, or the court to which an appeal is taken, it appears to the satisfaction of the court or jury trying the case that the prosecution was malicious and without probable cause, the court shall so state in its finding, or the jury in its verdict, and the court shall enter judgment for costs against the person at whose instance the complaint was made, and shall issue execution therefor.

(Ord. No. 163, Art. 1, § 24, 2-1-77)

Sec. 12-31. - Transfer of complaint to magistrate.

If, in the progress of any trial before the municipal judge, it shall appear that the accused ought to be put upon his trial for an offense against the criminal laws of the state, and not cognizant before the judge, he shall immediately stop further proceedings before him as municipal judge and cause complaint to be made at once before a magistrate having jurisdiction, who shall thereupon proceed as in other cases cognizable before the magistrates.

(Ord. No. 163, Art. 1, § 25, 2-1-77)

**State Law reference**— Similar provisions, RSMo. § 479.170.

Sec. 12-32. - Authority of mayor to remit fines, grant pardons, etc.

The mayor may, in his discretion, remit in whole or in part any fine, penalty or forfeiture assessed in municipal court for the breach of any ordinance, may grant reprieves and pardons after the conviction of any offense and may attach any conditions to such remittance, reprieve or pardon as in his judgment would further the ends of justice.

(Ord. No. 163, Art. 1, § 27, 2-1-77)

Sec. 12-33. - Duties of municipal court clerk generally; execution book.

The municipal court clerk shall have the care and custody of all books, records, and dockets of the municipal court, shall file and preserve all papers which pertain to any suit or proceedings had therein and shall keep a book to be called "execution book" with a debit and a credit side, in which he shall enter on the debit side every execution delivered to the city marshal, placing in separate columns the amount of the fines, witness fees; on the credit side he shall enter in like manner every execution returned to him by the city marshal, taking care to keep together fines satisfied in distinct columns from fines in jail, or other cases in which the same are not collected.

(Ord. No. 163, Art. 1, § 28, 2-1-77; Ord. No. 525, § 2, 1-4-94)

Sec. 12-34. - Service of processes, etc., on city; making affidavit on behalf of city.

All processes and notices which may be necessary, in any suit before the municipal judge to serve on the city, shall be served on the city attorney, municipal court clerk or the person acting in their stead. When an affidavit on the part of the city is required in any case which has originated in the municipal court, it shall be made by the city attorney, or, in case of his inability, by any person to whom the facts are known.

(Ord. No. 163, Art. 1, § 29, 2-1-77; Ord. No. 525, § 2, 1-4-94)

Sec. 12-35. - Court costs—Generally.

The court costs in all cases in the municipal court including those disposed of in the traffic violations bureau shall be twelve dollars (\$12.00) unless such costs are waived or stayed by the judge as hereinafter provided; provided that additional costs shall be added as follows:

- (1) For the first time in which a letter or summons is sent to a defendant in a case who has failed to appear for court setting advising the defendant of the new court date, an additional three dollars (\$3.00), and for any further summons sent to a defendant who failed to appear for a court setting, the charge will be six dollars (\$6.00) for each additional summons.
- (2) Reserved.
- (3) Reserved.
- (4) Issuance of a commitment, ten dollars (\$10.00).
- (5) Reserved.
- (6) Actual costs assessed against the city by the county sheriff and county department of welfare for apprehension or confinement in the county jail.
- (7)

In addition to the above costs, mileage, in the same amount that is provided to the sheriff in criminal violations, for each mile and fraction thereof the officer must travel (both directions) in order to serve a warrant, or commitment or order of the municipal court.

- (8) In any case appealed to the circuit court, the sum of seventy-five dollars (\$75.00) as the city prosecutor's trial fee.
- (9) The costs specified in this section are cumulative.

(Ord. No. 163, Art. 1, § 31, 2-1-77; Ord. No. 262, § 1, 11-4-81; Ord. No. 428, § 1, 9-5-89; Ord. No. 453, § 1, 9-4-90; Ord. No. 897, § 1, 12-5-06; Ord. No. 984, § 1, 9-1-09; Ord. No. 1068, §§ 1—4, 12-16-14)

**Cross reference**— Traffic violations bureau, § 20-71 et seq.; schedule for traffic violations bureau, § 20-487.

**State Law reference**— Court costs, RSMo. § 479.260.

Sec. 12-35A. - Same—Additional court costs for violations of general criminal nature.

Unless the defendant in a case filed before the municipal court is dismissed, a sum of two dollars (\$2.00) shall be assessed as court costs, in addition to any court costs assessed under section 12-35 hereof, in all cases filed in the municipal court for municipal ordinance violations of a general criminal nature except for nonmoving traffic violations and violations of fish and game regulations. Such additional court costs shall be transmitted monthly to the city treasurer and shall only be used for the selection and training of peace officers including, without limitation, the city marshal and assistant marshal, if any, as required by Missouri Revised Statutes, Sections 590.100 through 590.180 (Supp. 1988), as amended. Any excess funds not needed for such training may be used to pay for additional training for such peace officers or for training other law enforcement employees appointed by the city.

(Ord. No. 428, § 2, 9-5-89; Ord. No. 429, § 2[A], 9-5-89)

Sec. 12-35B. - Same—Additional court cost for each municipal ordinance violation.

- (a) The municipal court is hereby authorized, pursuant to RSMo § 479.261 to assess an additional court cost for each municipal ordinance violation filed before the municipal division of the City of Black Jack of an amount not to exceed two dollars (\$2.00) per case. Such additional costs may be waived by the municipal court if the judge finds the defendant indigent and unable to pay such cost.
- (b) The cost assessed herein shall be collected and dispersed by the clerk of the court for the purpose of providing operating expenses for the domestic violence shelter(s) for battered persons located in St. Louis County in accordance with directions of the city council per resolution.

(Ord. No. 657, §§ 1—3, 7-20-99)

**Editor's note**— Section 1 of Ord. No. 657, adopted July 20, 1999, repealed Ord. No. 601 from which § 12-35B derived, and enacted similar provisions set out, at the discretion of the editor, as § 12-35B.

Sec. 12-36. - Same—Liability; assessment; stays and reductions.

- (a) Where a complaint includes more than one (1) defendant, the one convicted shall be liable for all costs, or, if more than one (1) is convicted, they shall be jointly and severally liable, the judge may apportion the costs between them as he deems advisable in the interest of justice.
- (b) If there is more than one (1) count, complaint, information or charge against a defendant, the full amount of costs authorized under section 12-35 of this Code may be assessed on any one (1) or all of the charges on which he may be tried and found guilty in the city.

- (c) The clerk shall cause to be prepared and shall keep in each case a bill of costs according to the foregoing, in such form as may be approved by the judge. The cost bill shall be subject to approval by the judge and when so approved the amount thereof shall be entered in his docket.
- (d) The judge may reduce the costs in any case by striking all or any portion of the amounts provided for, or he may stay the costs permanently or pending his further orders, and upon such conditions as he may deem advisable in the interest of justice.
- (e) Costs shall be assessed against and collected from the defendant when the defendant is found guilty or when the case against him is dismissed upon condition that he pay the court costs or such portion thereof as may be required by the judge, and costs shall also be assessed in accordance with the provisions of this section in cases of conviction of criminal contempt, attachments against witnesses, and forfeitures of bonds so far as applicable to the particular case.

(Ord. No. 163, Art. 1, § 32, 2-1-77)

Sec. 12-37. - Payment of costs by city.

The municipal court clerk shall audit and allow all accounts for costs which shall have accrued in suits appealed from the municipal court to the circuit court, and for which the city shall have become liable by reason of the judgment against it by the municipal judge or judge of the of the circuit court as the case may be; provided, that such account is duly certified as correct by the municipal judge or clerk of the circuit court, as the case may be. The municipal court clerk shall thereupon draw his warrant therefor upon the city treasurer, payable out of the appropriation for costs in criminal cases.

(Ord. No. 163, Art. 1, § 26, 2-1-77; Ord. No. 525, § 2, 1-4-94)

Sec. 12-38. - Sentencing.

The municipal judge may, when a person has pleaded guilty to or has been found guilty of the violation of any municipal ordinance:

- (1) Suspend sentencing pending the successful completion by the convicted person of a course of educational training designed to improve the driving habits of said individual; or
- (2) Suspend sentencing pending the successful completion of any other reasonable and lawful requirements placed on said individual by the municipal judge for and during a probationary period as established by the municipal judge, said period not to exceed six (6) months; or
- (3) Order a convicted person to attend a course of educational training in lieu of or in addition to the penalty otherwise provided by law for the offense.

(Ord. No. 163, Art. 1, § 33, 2-1-77)

Sec. 12-39. - Provisional judge during absence, illness or disqualification of presiding judge.

In the event of the absence, illness or disqualification in any way of the presiding municipal judge, the mayor, or person performing the duties of mayor, may request the presiding municipal judge to designate a provisional municipal judge to serve during such absence, illness or disqualification or, in cases or circumstances making it impossible to reach the presiding municipal judge in a timely manner, the mayor, or person performing the duties of mayor, may designate some competent, eligible person to act as municipal judge until the presiding municipal judge can designate a provisional municipal judge as provided for hereunder. The provisional municipal judge shall be compensated in the same manner and in the same amounts as the municipal judge, but shall only be compensated for those periods that the provisional municipal judge is performing the duties of the municipal judge.

(Ord. No. 918, § 1, 9-4-07)

**Editor's note—** Ord. No. 918, § 1, adopted Sept. 4, 2007, repealed § 12-39, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 12-39 pertained to appointment, tenure, duties and compensation of provisional municipal judge and derived from Ord. No. 633, § 1, adopted Apr. 7, 1998.

Sec. 12-40. - Search warrants.

- (a) A search warrant is a written order of the municipal judge commanding the search or inspection of any property, place or thing, and the seizure, photographing, copying or recording of property or physical conditions found thereon or therein, to determine or prove the existence of violations of any ordinance or this Code relating to the use, condition or occupancy of property or structures located within the city, or to enforce the provisions of any such ordinance or this Code.
- (b) The municipal judge, having original and exclusive jurisdiction to determine violations of any ordinances or this Code, may issue a search warrant when:
  - (1) The property or place to be searched or inspected, or the thing to be seized, is located within the city at the time an application for a search warrant is made; and
  - (2) The owner or occupant of the property or place to be searched or inspected, or the thing to be seized, has refused to allow such search or inspection after an official request by the city has been made.
- (c) The director of public works, or his/her designee, or any peace officer may make an application for the issuance of a search warrant. The application shall:
  - (1) Be in writing;
  - (2) State the time and date that the application is made;
  - (3) Identify the structure or premises which are to be entered upon, searched or inspected, or the thing which is to be seized, in sufficient detail and particularity that the director of public works, or his/her designee, or peace officer executing the search warrant may readily ascertain the structure, premises or thing to be searched or seized;
  - (4) State that the owner or occupant of the structure or premises to be entered upon, searched or inspected, or of the thing to be seized, has refused a request by the director of public works, or his/her designee, or peace officer to conduct such action;
  - (5) State facts sufficient to show probable cause for the issuance of a search warrant;
  - (6) Be verified by oath or affirmation of the applicant; and
  - (7) Be filed in the municipal court.
- (d) The application for the issuance of a search warrant may be supplemented by a written affidavit verified by oath or affirmation of the applicant. Such affidavit shall be considered when determining whether there is probable cause for the issuance of a search warrant and shall be considered to resolve any deficiencies in the description of the structure or premise to be entered upon, searched or inspected, or the thing to be seized. Oral testimony shall not be considered.
- (e) The municipal judge shall hold a non-adversary hearing to determine whether sufficient facts have been stated for the issuance of a search warrant. If it appears from the application, and any supporting affidavit, that there is probable cause to believe that the place or thing subject to search or seizure is in, on or upon the structure or premises described in the application, and any supporting affidavit, a search warrant shall be immediately issued. The warrant shall be issued in the form of an original and two (2) copies.

- (f) The application, and any supporting affidavit, and a copy of the warrant shall be retained in the records of the municipal court.
- (g) The search warrant shall:
  - (1) Be in writing and issued in the name of the city;
  - (2) Be directed to the director of public works, or his/her designee, or any peace officer;
  - (3) State the time and date the search warrant is issued;
  - (4) Identify the structure or premises which is to be entered upon, searched or inspected, or the thing to be seized, in sufficient detail and particularity that the director of public works, or his/her designee, or any peace officer executing the search warrant may readily ascertain the structure or premises to be searched or inspected, or thing to be seized;
  - (5) Command that the structure or premises be entered upon, searched or inspected, and any evidence of any violation(s) found therein or thereon, or any property seized pursuant thereto, or a description of such property, be returned to the municipal judge who issued the search warrant, to be dealt with according to law not later than ten (10) days after the date the application for the search warrant is made; and
  - (6) Be signed by the municipal judge, with his/her title of office indicated thereon.
- (h) A search warrant issued under this section may only be executed by the director of public works, or his/her designee, or any peace officer. The search warrant shall be executed by conducting the search and seizing the thing(s) commanded therein.
- (i) A search warrant shall be executed in a reasonable manner and as soon as practicable. A search warrant shall expire if it is not executed and a return not made within ten (10) days after the date of the application.
- (j) The director of public works, or his/her designee, or any peace officer conducting the search or inspection shall give the owner or occupant of the property or place entered upon, searched or inspected, or of the property seized, a copy of the search warrant.
- (k) If property is seized incident to the search, the director of public works, or his/her designee, or any peace officer conducting the search, shall give the person from whose possession the property is taken an itemized receipt listing the property taken, but only if such person is present. If no such person is present, the director of public works, or his/her designee, or any peace officer shall leave the receipt in a conspicuous place at the site of the search or seizure.
- (l) After execution of the search warrant, the search warrant with a return thereon, signed by the director of public works, or his/her designee, or any peace officer making the search, shall be delivered to the municipal judge who issued the warrant. The return shall indicate the date and manner of execution, the items seized, and the name of the possessor and the name of the owner, when he/she is not the same person, if known. The return shall be accompanied by a copy of the itemized property receipt required in this section. A copy of the itemized property receipt shall be delivered to the municipal court with two (2) business days of the search.
- (m) A search warrant shall be deemed invalid:
  - (1) If it was not issued by a municipal judge; or
  - (2) If it was issued without a written application having first been filed and verified by the municipal court; or
  - (3) If it was issued without probable cause; or
  - (4) If it was not issued with respect to property or places located within the city; or

- (5) If it does not describe the structure or premises to be entered upon, searched, or inspected, or the thing to be seized, with sufficient detail and particularity as required in this section; or
  - (6) If it was not signed by the municipal judge who issued the search warrant; or
  - (7) If it was not executed within the time prescribed in this section.
- (n) The city will pay the reasonable costs for the defense of any city official, elected or appointed, who is sued or prosecuted because of actions taken in carrying out the authority granted by this section.

(Ord. No. 737, § 1, 12-4-01)

## Chapter 13 - NUISANCES<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Definitions and rules of construction generally, § 1-2; animals and fowl, Ch. 5; dangerous buildings, § 6-206 et seq.; county nuisance ordinance adopted, § 9-1; storage of material constituting health menace, § 11-93; pools and ponds of water, § 11-95; pollution of waters in parks, § 14-45.*

**State Law reference**— *Suppression of nuisances, RSMo. § 71.780.*

## ARTICLE I. - IN GENERAL

### Sec. 13-1. - Prohibited; abatement.

- (a) Any act done or suffered to be permitted by any person upon his property, or any substance or thing kept or maintained, placed or thrown on or upon any public or private place, which is injurious to the public health, or any pursuit followed or act done by any person to the hurt, injury, inconvenience or danger to the health, safety, or welfare of the public or residents of the immediate vicinity, is defined and declared to be a public nuisance. Such public nuisance declaration shall include, without limitation, the following:
- (1) Maintaining or permitting conditions that promote or allow mosquito, cockroach, flea, or other insect infestations to develop upon a premises or in stagnant pools or impoundments of water, or conditions that provide harborage for rats, mice, snakes and other vermin, that constitute a hurt, injury, inconvenience or danger to the health, safety, or welfare of the public or residents of the immediate vicinity.
  - (2) Carcasses of animals or fowl not disposed of within twelve (12) hours after death.
  - (3) Placement or dumping of any rubbish, lumber, building materials, rocks, bricks, metal products, tin, steel, parts of derelict motor vehicles, landscape equipment or other machinery, household items, flammable materials, brush, tree limbs, uprooted bushes, dead plant material, lawn clippings, weeds, leaves, tree trunks, tree branches and any other yard waste in such a manner that constitutes a hurt, injury, inconvenience or danger to the health, safety or welfare of the public or residents and occupants of the immediate vicinity.
- (b) When the director of public works, or his duly authorized agent, ascertains that public nuisance as described above exists, the director of public works, or his duly authorized agent, may serve written notice to the owner or other person in control of such property, which such notice shall state at a minimum:
- (1) That a public nuisance exists;
  - (2) A description of the condition which constitutes the public nuisance;
  - (3)

That the recipient of the notice is ordered to abate the public nuisance within seven (7) days after the notice is served;

- (4) That the owner may file a written request for a hearing before the director of public works on the question of whether a public nuisance exists upon such property; and
  - (5) That if the public nuisance is not abated within said seven (7) day period, the director of public works, or his duly authorized agent, may have the public nuisance abated and the costs of the same shall be assessed against such property and may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes.
- (c) The notice to the owner or other person in control of such property described above in subsection (b) shall be served in any one (1) of the following ways:
- (1) By causing said notice to be hand delivered to such owner, such owner's agent, an occupant whose age is fifteen (15) years or more, or other person in control either in the city, county or elsewhere.
  - (2) By posting a copy of such notice upon the property in question, said notice to be deemed served at the end of twenty-four (24) hours after the posting thereof.
  - (3) By mailing such notice or copy thereof by certified mail, return receipt requested, postage prepaid, directed to such owner or other person in control of said property, either at his place of business or residence, said notice to be deemed served twenty-four (24) hours after the mailing of said notice in case it is directed to the business or residence address of the owner or other person in control of said property, provided that if the said owner or other person in control of said property be nonresidents of the city and have no business address or offices in the city, then the said notice shall be deemed served at the end of such period after the mailing thereof as in the ordinary course of transmission of the mail by the United States Government would be required for the receipt of said notice by the owner or other person in control of said property at their place of residence or business.
- (d) *Removal by the city.*
- (1) If the owner or owners or other persons in control of any property described in this section fails to abate the public nuisance within seven (7) business days after the notice described above is served, the director of public works, or his duly authorized agent, may cause such public nuisance to be abated. The director of public works, or his duly authorized agent, shall have the right to enter upon property upon which a public nuisance exists for the purpose of enforcing this section, and may use any suitable means or assistance for the purpose of abating the public nuisance, including the letting of contracts by the city for the aforesaid work.
  - (2) Upon the completion of the abatement of such public nuisance by the director of public works, or by a person authorized by contract, the director of public works, or his duly authorized agent, shall cause the total cost of such work to be determined and by report certify the same to the city clerk. Upon approval of such report by the city clerk, the city clerk shall endorse the report and shall cause the certified cost to be included in a special tax bill to be collected by the city collector or deputy collector. The special tax bill shall include a charge of eight dollars (\$8.00) for each inspection of the property and the giving of notice plus the cost of abatement as determined by the director of public works. In the event the city collector or deputy collector is unable to collect the certified cost on the special tax bill within ninety (90) days of the due date, the director of public works and the city collector or deputy collector shall cause the certified cost to be added to

the annual real estate tax bill for the property and the certified cost shall be collected in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid when due, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a first lien on the property until paid.

- (e) Any owner, occupant or person in control of any property or properties described in this section who shall violate or fail to comply with any provisions of this section shall be guilty of an offense. The fine shall be in the discretion of the court and shall not be more than five hundred dollars (\$500.00).

(Ord. No. 29, §§ 1, 3, 5-4-71; Ord. No. 703, § 1, 2-6-01; Ord. No. 896, § 1, 12-5-06; Ord. No. 1014, § 1, 11-16-10)

Sec. 13-2. - Abandoned, wrecked or discarded vehicles.

- (a) No person in charge or control of any property within the city, whether as owner, occupant, or otherwise, shall allow any junked vehicle or parts thereof to remain on such property longer than forty-eight (48) hours; except that this section shall not apply with regard to a junked vehicle in an enclosed building, a junked vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise or a junked vehicle in an appropriate storage place or depository maintained in a lawful place and manner by the city.
- (b) No person shall abandon any vehicle within the city and no person shall leave any vehicle at any place within the city for such time and under such circumstances as to cause such vehicles reasonably to appear to have been abandoned, or shall have any vehicle unattended on any public street for more than forty-eight (48) hours.
- (c) No person shall leave any junked vehicle or part thereof on any street or highway within the city for more than forty-eight (48) hours.
- (d) If any vehicle is covered with a vehicle cover, tarpaulin or similar device used to cover the vehicle or no license is visible from the public roadway, the homeowner shall be required to show proof that the vehicle is properly licensed.
- (e) *Notice of removal.*
  - (1) Upon proper notice and an opportunity to be heard having been given, the owner of the vehicle or junked vehicle or part thereof and the owner or occupant of the real property whereon the vehicle or junked vehicle or part thereof is situate shall be jointly and individually liable for such vehicle's removal, storage and related expenses.
  - (2) The city marshal, or St. Louis County Police Department shall give notice of removal to the owner of the vehicle, if ascertainable, and to the owner or occupant of the private property where it is located at least five (5) days before the time set for compliance. Any such interested party may file a written request for hearing within the five-day period.
  - (3) It shall constitute sufficient notice for a copy of the notice to be left at the residence of the occupant, if any, of the private property on which the vehicle or junked vehicle is located, a copy placed on said vehicle, and a copy sent by certified mail or certificate of mailing to the owner of the vehicle, if ascertainable, and to the owner of the private property at the owner's last known address according to the assessor's rolls of St. Louis County.
  - (4) The notice shall provide the following information:
    - a. Cite the violation of this section;

- b. Order the removal of the vehicle within the five-day period;
  - c. State that there is a right to a hearing; and
  - d. Advise that upon failure to comply with the notice to remove, the city shall undertake such removal with the cost of removal to be levied against the owner or occupant of the real property upon which the vehicle is situated, or the owner of the vehicle or junked vehicle.
- (5) The city marshal or St. Louis County Police Department shall have the right to enter upon private property to take possession of the vehicle or junked vehicle and remove it from the premises if the violation has not been remedied within the five-day compliance period.
- (6) Hearing.
- a. The owner or occupant of private property on which a vehicle or junked vehicle or part thereof is situate may file in the office of the city marshal a written request for a hearing. The request must be filed within the five-day compliance period which request shall stay the five-day compliance period.
  - b. A public hearing shall be held within five (5) days of the hearing request by the city marshal to determine whether there are reasonable grounds to believe that an ordinance or statute is violated by the vehicle or junked vehicle.
  - c. If the city marshal is satisfied that there are reasonable grounds to believe that a violation exists, the city marshal shall order the St. Louis County Police Department to remove said vehicle. The city marshal may impose such conditions and take such other action as deemed appropriate under the circumstances to carry out the purpose of this chapter, and may delay the time for the removal of the vehicle or junked vehicle if, in the city marshal's opinion, the circumstances justify it. In the alternative, the city marshal shall enter an order allowing such vehicle to remain if the city marshal finds no violation or nuisance.
- (7) The city marshal or St. Louis County Police Department may remove or cause to be removed any vehicle or junked vehicle in accordance with the provisions of this section by requesting such services of a service station, towing operator, salvage dealer or motor vehicle repair shop under contract with the city for towing services. Such vehicles shall be placed in a garage, towing service facility, auto repair shop or other place designated or maintained by the department.
- (f) The following definitions shall apply in the interpretation and enforcement of this section:
- (1) *Junked vehicle* shall mean any dismantled, non-operating, wrecked, or discarded vehicle or part thereof or a vehicle without current, valid registration plates or tags and any required vehicle safety inspection certificate lawfully attached to it.
  - (2) *Property* shall mean any real property with the city which is not a street or highway.
  - (3) *Street* or *highway* shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
  - (4) *Vehicle* shall mean a machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners, or slides and transport persons or property or pull machinery and shall include, without limitation, automobile, truck, trailer, motorcycle, tractor, buggy and wagon. The definition of "vehicle" shall also include boats, jet skis, wet bikes, other watercraft, trailers, campers and like instrumentality required to be licensed by the State of Missouri.

(Ord. No. 54, §§ 1—6, 10-18-71; Ord. No. 171, §§ 1—4, 7-5-77; Ord. No. 207, §§ 1—4, 3-6-79; Ord. No. 487, §§ 1—6, 1-21-92; Ord. No. 776, §§ 1—4, 1-21-03)

Secs. 13-3—13-20. - Reserved.

## ARTICLE II. - WEEDS<sup>[2]</sup>

*Footnotes:*

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**Editor's note**—Ord. No. 796, § 1, adopted Aug. 5, 2003, amended former Art. II, §§ 13-26—13-28, in its entirety to read as herein set out. Former Art. II pertained to similar subject matter and derived from the following:

Ord. No.	Section	Date
454	1	9-18-90
467	1	4-2-91
521	1	12- 7-93
554	1	12-20-94
617	1	7- 1-97

Ord. No.	Section	Date
685	1	6- 6-00
703	2	2- 6-01
721	1	9- 4-01
791	1, 2	5-20-03

**State Law reference**— Weed removal, RSMo. § 71.285.

Sec. 13-21. - Exemption.

Nothing in this article relating to noxious growths shall be construed as applying to any fields or gardens which contain crops or vegetation being grown for consumption purposes or which are actively in use for the grazing of livestock or to any other parcel of land or any portion thereof located over one hundred fifty (150) feet from any public street, alley, or parkway and from any parcel of land where exists a dwelling, common area or park or structure suitable for use in a C-2 or C-8 zoning district. For purposes of this section 13-21, the definitions contained in Appendix C, Zoning of this code shall apply.

(Ord. No. 796, § 1, 8-5-03)

Sec. 13-22. - Nuisance declared; prohibited.

The following weeds, growths, and vegetation are a public nuisance and are referred to in this article as "noxious growths":

- (a) Any growth of any grasses, weeds, Russian, Canadian, Scotch or musk thistle, wild lettuce, wild mustard, wild parsley, ragweed, ironweed, poisonous plants or shrubs, and all other noxious vegetation, which have attained a height of seven (7) inches or more, growing or being upon any private property within the city.
- (b) Any weed, growth or vegetation growing or being upon any private property, when such weed, growth or vegetation by direct contact or by proximity thereto can cause irritation, dermatitis or lesion to the skin of any person.
- (c) Any trees, shrubbery, bushes or vegetation growing or being upon any private property which are not kept trimmed as specified in the following subsections to prevent obstruction of the view and movements of vehicles and pedestrians on public thoroughfares.
  - (1) *Sidewalks.* Trees, shrubbery, bushes and vegetation shall be kept trimmed so as to provide clearance under any weather conditions for a horizontal width of at least four (4) feet and a vertical clearance of at least seven (7) feet from any sidewalk. The term "sidewalk" includes paved sidewalks, within the confines of a dedicated street, a walkway on public right-of-way normally used by the public as indicated by a worn path, or a walkway on a public easement.
  - (2) *Streets or alleys.* Trees, shrubbery, bushes and vegetation shall be kept trimmed so that during any weather conditions the foliage or branches shall not extend beyond the curbline unless there is a clearance of at least ten (10) feet above the curb and ten (10) feet above the center of the nearest traffic lane. In those cases where no curb has been provided, the curbline clearance shall apply at the nearest edge of the roadway surface.
  - (3) *Line of sight at intersections or changes in direction shall be maintained as follows:*
    - i. The foliage and branches of all trees, shrubbery, bushes and vegetation shall be kept trimmed so as to provide a clear line of sight for at least seventy-five (75) feet on the approach side for all street traffic signals or traffic control postings; and
    - ii. The foliage and branches of all trees, shrubbery, bushes and vegetation on any lot which adjoins intersecting streets, alleys or public driveways, or a change in the direction of a street, shall not obstruct or obscure in any manner the clear view of any person using such streets, alleys or public driveways or any person operating a motor vehicle approaching the intersection or change in direction as follows:

A triangular space determined by a diagonal line connecting two points measured fifteen (15) feet equidistant from the intersection of the property lines or the property lines extended on the corner of each lot using each of the street right-of-way lines.
- (d) Any dead trees, limbs or shrubs which are hazardous or dangerous to the public.
- (e) Any trees or shrubbery which interfere with the operation or visibility of a fire hydrant.
- (f) As used herein, the term "private property" includes property owned privately but subject to a public easement, including, but not limited to, dedicated street right-of-way.

(Ord. No. 796, § 1, 8-5-03)

Sec. 13-23. - Abatement of nuisance.

- (a) Each owner, occupant or person in control of any property described in section 13-22 of this Code shall cause said property to be kept free from noxious growths by destroying them by spraying with a chemical compound approved by the Missouri State Conservation Commission and applied at the direction of the director of public works or his duly authorized agent, or by cutting or digging under, or any other method approved by the director of public works or his duly authorized agent.
- (b) No owner shall permit or cause noxious growths to remain on the property and when cut shall remove the same from such property and dispose of it in such a manner as not to create a nuisance. Failure of any property owner to remove said noxious growths shall constitute cause for the city to abate said nuisance as set forth in this article.

(Ord. No. 796, § 1, 8-5-03)

Sec. 13-24. - Enforcement.

It shall be the duty of the director of public works or his/her designee to enforce the provisions of this article.

(Ord. No. 796, § 1, 8-5-03)

Sec. 13-25. - Notice to owner of violation.

- (a) When the director of public works, or his duly authorized agent, ascertains that noxious growths have been allowed to grow on private property in violation of this article, the director of public works, or his duly authorized agent, shall serve written notice to the owner or other person in control of such property, which such notice shall state at a minimum:
  - (1) That noxious growths are growing thereon;
  - (2) A description of the noxious growths;
  - (3) That the recipient of the notice is ordered to abate the noxious growths within seven (7) days after the notice is served;
  - (4) That the owner may file a written request for a hearing before the director of public works on the question of whether noxious growths exist upon such property; and
  - (5) That if the noxious growths are not cut down and removed within said seven (7) day period, the director of public works, or his duly authorized agent, may have the noxious growths cut down and removed and the costs of the same shall be assessed against such property and may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes.
- (b) The notice to the owner or other person in control of such property described above in subsection (a) shall be served in any one of the following ways:
  - (1) By causing said notice to be hand delivered to such owner, such owner's agent, an occupant whose age is fifteen (15) years or more, or other person in control of such property.
  - (2) By posting a copy of such notice upon the property in question, said notice to be deemed served at the end of twenty-four (24) hours after the posting thereof.
  - (3) By mailing such notice or copy thereof by certified mail, return receipt requested, postage prepaid, directed to such owner or other person in control of said property, either at his place of business or residence, said notice to be deemed served twenty-four (24) hours after the mailing of said notice in case it is directed to the business or residence address of the owner or other person in control of said property, provided that if the said owner or other person in control of

said property be nonresidents of the city and have no business address or offices in the city, then the said notice shall be deemed served at the end of such period after the mailing thereof as in the ordinary course of transmission of the mail by the United States Government would be required for the receipt of said notice by the owner or other person in control of said property at their place of residence or business.

(Ord. No. 796, § 1, 8-5-03; Ord. No. 949, § 1, 10-7-08)

Sec. 13-26. - Subsequent violations.

If noxious growths are permitted to grow or accumulate on private property in violation of this article more than one (1) time during the same growing season and, pursuant to section 13-25, a notice of violation of this article was delivered to the owner or other person in control of such property for any such prior violation during the same growing season, then the director of public works, or his/her duly authorized agent, may, without further notification to such owner or other person in control of such property, remove such noxious growths in the manner set forth in section 13-23 of this Code, and may collect the total cost of such removal in the manner set forth in section 13-27 of this Code. The director of public works, or his/her duly authorized agent, may hire and enter into contracts with independent contractors to destroy or remove such noxious growths.

(Ord. No. 949, § 2, 10-7-08)

**Editor's note—** Ord. No. 949, § 2, adopted Oct. 7, 2008, repealed § 13-26 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 13-26 pertained to similar subject matter and derived from Ord. No. 796, § 1, adopted Aug. 5, 2003.

Sec. 13-27. - Removal by city.

- (a) If the owner or owners or other person in control of any property described in section 13-22 of this Code fails to destroy the noxious growths and thereby abate the nuisance within seven (7) days after the notice described in Section 13-25 is delivered, the director of public works, or his/her duly authorized agent, shall cause such noxious growths to be destroyed by one of the methods set forth in section 13-23 of this Code. The director of public works, or his/her duly authorized agent, may hire and enter into contracts with independent contractors to destroy or remove such noxious growths.
- (b) Upon the completion of the destruction of such noxious growths by the director of public works, or by a person authorized by contract, the director of public works, or his duly authorized agent, shall cause the total cost of such work to be determined and by report certify the same to the city clerk.
- (c) Upon approval of such report by the city clerk, the city clerk shall endorse the report and shall cause the certified cost to be included in a special tax bill to be collected by the city collector or deputy collector and/or included in the annual real estate tax bill for the property, in which event the certified cost shall be collected in the same manner and procedure for collecting real estate taxes. The certified cost of destroying the noxious growths shall include the reasonable administrative costs incurred by the city, as determined by the director of public works or his/her duly authorized agent, for inspecting the subject property, coordinating the destruction of the noxious growths, giving notices as required under this article and causing the issuance of the special tax bill. If the certified cost is not paid when due, the tax bill shall be considered delinquent and shall bear interest at eight (8) percent per annum, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the property

owner and shall also be a first lien on the property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill, including attorneys' fees.

(Ord. No. 796, § 1, 8-5-03; Ord. No. 979, § 1, 7-21-09)

#### Sec. 13-28. - Penalties.

Any owner, occupant or person in control of any property or properties described in section 13-22 of this article who shall violate or fail to comply with any provisions of this article, including failure to comply with the notice described in section 13-25 of this article, shall be guilty of an offense. The fine for the first conviction shall be in the discretion of the court and shall not be more than seventy-five dollars (\$75.00), and the fine for a second conviction within three (3) years of a previous conviction shall be a minimum of seventy-five dollars (\$75.00) and no more than one hundred fifty dollars (\$150.00), and the fine for a third conviction within three (3) years of a previous conviction shall be a minimum of one hundred fifty dollars (\$150.00) and no more than two hundred fifty dollars (\$250.00), and the fine for each conviction in excess of three (3) convictions within a three-year period shall be a minimum fine of two hundred fifty dollars (\$250.00), and a maximum of one thousand dollars (\$1,000.00).

(Ord. No. 796, § 1, 8-5-03; Ord. No. 896, § 1, 12-5-06)

Secs. 13-29—13-40. - Reserved.

### ARTICLE III. - ABANDONED PROPERTY

#### Sec. 13-41. - Prohibited.

- (a) The depositing or placing of any private property except trash and garbage for proper pickups by proper haulers, and also except automobiles, bicycles and other vehicles lawfully traveling or parked thereon, upon the streets, easements or other public property of the city, is hereby prohibited.
- (b) Bicycles which are allowed to remain unattended in or upon the public property or easements of the city shall be deemed to have been abandoned if they have been allowed to remain unattended continuously for a period of more than eight (8) hours.
- (c) All other personal property which is deposited or placed upon the streets or public easements of the city and allowed to remain continuously thereon or therein for a period longer than twenty-four (24) hours shall be deemed to have been abandoned by its owner.

(Ord. No. 205, §§ 1—3, 2-20-79)

#### Sec. 13-42. - Removal by city.

- (a) The city marshal shall take the following action with respect to the following classes of property which he shall find upon the streets or public easements of the city:
  - (1) Property mentioned in subsection (b) of Section 13-41 of this Code: Tow away, store and sell at public auction after advertised public notice thereof after no less than two (2) months.
  - (2) Property mentioned in subsection (c) of Section 13-41 of this Code: Tow away, store, and sell at public auction after advertised public notice thereof after no less than one (1) month.
- (b) The city marshal may, in his discretion and judgment, determine that property which has been abandoned on the public streets and easements of the city is not of sufficient value to warrant the expense of storage, and may have same destroyed, towed or hauled away without storage or public auction.

(Ord. No. 205, §§ 4, 5, 2-20-79)

Sec. 13-43. - Notice of removal; sale by city, etc.

- (a) In the case of personal property mentioned in this article, the city marshal shall, as soon as possible after storage has been accomplished, notify the owner thereof, by telephone, letter or other notice of the fact of the storage of his property, the place of storage and that it may be redeemed upon payment of storage charges.
- (b) The city marshal shall not be required to attempt notice of any kind in the case of property abandoned, deposited or placed on the public easement which property he has determined to be insufficient value to take into custody, store and sell at public auction.
- (c) Advertisement of notice of sale shall be in a newspaper published or distributed in the city, which newspaper is qualified to advertise public notices for the city.
- (d) Sale of property at public auction shall be conducted by, or under the auspices and direction of the city marshal, within the city at a place and time designated by the city marshal.
- (e) All proceeds of sale of property sold at public auction pursuant to authority contained herein shall be deposited in the city's treasury with proper records allocable to each item indicating the cost to the city of towing, storage, advertisement and sale of said property.
- (f) Any owner of property towed and stored by the city marshal pursuant to this article may redeem his property upon payment of towing, haulage and storage charges before sale thereof. Within two (2) years after public sale of said property, the owner may, upon demand, recover the proceeds of the sale of his property, less expenses of towing, haulage, storage and sale.

(Ord. No. 205, §§ 6—10, 2-20-79)

Secs. 13-44—13-60. - Reserved.

#### ARTICLE IV. - PORTABLE OUTDOOR STORAGE CONTAINERS

Sec. 13-61. - Definitions.

As used in this article, the term "portable outdoor storage container" shall mean any container, storage unit, storage trailer, shed-like container or other portable structure that can or is used for the storage of personal property of any kind and which is located for such purposes outside an enclosed building, other than an accessory building, structure or shed complying with the city zoning ordinance.

(Ord. No. 950, § 1, 7-15-08)

Sec. 13-62. - use of portable outdoor storage containers.

- (a) No portable outdoor storage containers may be used within the city except in compliance with this article.
- (b) It shall be unlawful for any person to park, place or suffer placement of a portable outdoor storage container upon any residential lot or property in the city other than on a concrete, asphalt or other improved surface. Where it is reasonably possible to do so, all portable outdoor storage containers shall be stored behind the building located on such residential property. In non-residential zoning districts, portable outdoor storage containers shall be placed in a location approved by the director of public works or his/her designee.
- (c) No more than one (1) portable outdoor storage containers may be placed on any lot or real property at any one time.
- (d)

In no event may a lot or real property have located thereon a portable outdoor storage container for a period exceeding thirty (30) consecutive days or for more than thirty (30) days during any twelve (12) month period. Notwithstanding the foregoing, portable outdoor storage containers may be allowed on a lot or real property in conjunction with a building or demolition permit with respect to said lot or real property during the valid time of such permit.

- (e) In no event shall any portable outdoor storage container be placed in any public right-of-way or easement.
- (f) Temporary storage units shall be locked and secured by the property owner or tenant at all times when loading or unloading is not taking place.
- (g) No portable outdoor storage container located within the city shall contain toxic or hazardous materials.
- (h) Signage painted on the portable outdoor storage container advertising the owner or provider is permitted, but all other signage, including but not limited to, the advertisement of any other product or service is prohibited and shall be deemed a violation of this article.

(Ord. No. 950, § 1, 7-15-08)

#### Sec. 13-63. - Permit.

- (a) Any owner or occupant of real property who causes or permits a portable outdoor storage container of any size to be placed upon any lot or real property in the city shall first pay a fee of \$25.00 and obtain a permit before doing so from the director of public works or his/her designee.
- (b) Upon expiration of the thirty (30) day period, the owner or occupant shall remove or have the portable outdoor storage container removed. Failure to remove the portable outdoor storage container upon expiration of the permit shall constitute a violation of this article.

(Ord. No. 950, § 1, 7-15-08)

#### Sec. 13-64. - penalties.

Any owner of any lot or real property upon or the occupant of any lot or real property at which a portable outdoor storage container is placed or is permitted to remain in violation of this article shall, upon conviction thereof, be guilty of an offense and shall be subject to punishment as provided in section 1-13 of this Code.

(Ord. No. 950, § 1, 7-15-08)

### Chapter 14 - PARKS AND RECREATION<sup>[1]</sup>

*Footnotes:*

--- (1) ---

**Cross reference**— Definitions and rules of construction generally, § 1-2.

**State Law reference**— Powers with reference to parks generally, RSMo. § 90.010 et seq.

## ARTICLE I. - IN GENERAL

Secs. 14-1—14-15. - Reserved.

## ARTICLE II. - PARKS AND RECREATION BOARD<sup>[2]</sup>

*Footnotes:*

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**Editor's note**—Ord. No. 1069, § 1, adopted January 20, 2015, repealed the former article II, §§ 14-16—14-19, and enacted a new article II as set out herein. The former article II pertained to similar subject matter and derived from Ord. No. 132, adopted November 19, 1974; Ord. No. 461, adopted March 5, 1991; Ord. No. 479, adopted October 1, 1991 and Ord. No. 1000, adopted May 18, 2010.

**State Law reference**— Park and recreation board, RSMo. § 520.520 et seq.

Sec. 14-16. - Generally.

- (a) There is hereby created a park and recreation board (sometimes hereinafter referred to as "the board") which shall consist of not more than nine (9) members nor less than five (5) members, with ward representatives as even as is practicable. The members shall be appointed by the mayor, subject to the approval of the city council, and shall be residents of the city and have been residents of the city for at least one (1) year immediately prior to their appointment. No member of city government shall be a voting member of said board. The city council shall elect from among its members a council liaison representative to the board. The council liaison representative shall be a nonvoting, ex officio member of the board. Members of the board shall receive no compensation for their services as such.
- (b) Such members shall hold their respective office from the first of June following their appointment. They shall be appointed for a term of three (3) years. On or before the first meeting in June of each year, the mayor shall, by and with the approval of the council, appoint three (3) members, who shall hold office for three (3) years. Members may be reappointed.
- (c) The mayor may, by and with the approval of the city council, remove any member of the board for misconduct or neglect of duty.
- (d) Vacancies occasioned by removal, resignation or otherwise, shall be reported to the city council, and shall be filled in like manner as original appointments, except that the term of office is restricted to the unexpired term of office.

(Ord. No. 1069, § 1, 1-20-15)

Sec. 14-17. - Officers, meetings and rules.

- (a) The park and recreation board shall, at its first meeting after the annual appointment of its members, elect from its members a chairman, vice chairman, and secretary. The chairman's, vice chairman's, and secretary's terms of office shall be for one (1) year with eligibility for re-election. If any vacancy occurs in any office during the year, an election can be held to fill the office and that person shall serve until the next regular election of officers. No person can hold more than one (1) office at the same time. The park and recreation board shall hold regular business meetings once each calendar quarter at a date and time established by the chairman with the consent and agreement of the members and a majority of the board shall constitute a quorum for the transaction of business. The board shall establish rules and procedures for the conduct of meetings. The board may hold additional meetings from time to time as it deems necessary at the call of the chairman, vice chairman, or secretary and upon at least seven (7) days' notice except in the case of emergencies. Any citizen member who during his term of office shall become an elected or appointed official of the city shall forfeit his office as member of the park and recreation board.
- (b) Any member of the park and recreation board may be removed, for cause, at the discretion of the mayor, with the majority approval of the city council.

(Ord. No. 1069, § 1, 1-20-15)

Sec. 14-18. - Goal.

The main goal of the park and recreation board shall be to provide park and recreation facilities, to maintain the facilities and to provide programs based upon the citizens' interests and desires.

(Ord. No. 1069, § 1, 1-20-15)

Sec. 14-19. - Duties.

The duties of the park and recreation board shall include, but not be limited to, the following:

- (1) Prepare a park and recreation master plan. This master plan shall be reviewed periodically and updated when necessary.
- (2) Conduct surveys when deemed necessary to obtain information about the needs and desires of the citizens in the area of parks and recreation.
- (3) Develop site plans for existing and proposed park sites.
- (4) Develop a recreation program plan for existing and proposed recreation programs.
- (5) Make recommendations for acquisition, development, improvement, operation and maintenance of park and recreation facilities and programs.
- (6) Prepare, for city council approval, a set of rules and regulations intended to provide for fair and orderly use of the park and recreation facilities, equipment and programs and to assure the safety of users of said park and recreation facilities.
- (7) Study and recommend optimum financing arrangements for park land and facilities and recreational equipment and programs.
- (8) Prepare and review that portion of the annual budget pertaining to the park and recreation board and make recommendations thereon directly to the mayor and city council, all of which shall be subject to the approval of the mayor and the city council.
- (9) Submit an annual report to the city council at the first council meeting in April of each year. Such report shall consist of:
  - a. Activity and expenditures for the past year.
  - b. Proposed activity and expenditures for the coming fiscal year.
  - c. Such other statistics, information and recommendations as the board may deem to be of general interest.
- (10) Perform such other duties as seem suitable and meet with the approval of the mayor and the city council.

(Ord. No. 1069, § 1, 1-20-15)

Secs. 14-20—14-35. - Reserved.

ARTICLE III. - PARK RULES AND REGULATIONS<sup>[3]</sup>

*Footnotes:*

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**Editor's note—** Ord. No. 1069, § 2, adopted January 20, 2015, repealed the former article III, §§ 14-36—14-46, and enacted a new article III as set out herein. The former article III pertained to park rules and derived from Ord. No. 251, adopted May 19, 1981; Ord. No. 662, adopted October 5, 1999 and Ord. No. 677, adopted March 21, 2000.

Sec. 14-36. - Scope.

The provisions of this article shall apply to all city parks.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-37. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bicycle* shall mean every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, except scooters and similar devices.

*Park* shall mean any park, playground, recreation center or any other area in the city owned or operated by the city and devoted to active or passive recreation.

*Park board* shall mean the park and recreation board of the city.

*Person* shall have the meaning set forth in section 1-2 of the Code of Ordinances of the City of Black Jack, Missouri.

*Resident* shall mean any person living within the boundaries of the city and the members of such person's immediate family.

*Vehicle* shall mean any wheeled conveyance, whether motor powered, animal-drawn, or self-propelled, including, but not limited to, automobiles, trucks, campers, recreational vehicles, ATVs, motorcycles, motor bikes, motor scooters and go-carts (baby carriages and vehicles in the service of the city being excluded from this definition).

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-38. - Operation and maintenance.

The park and recreation board shall oversee and make recommendations about the operation and maintenance of the city's parks, and the director of public works shall be responsible for the day to day operation and maintenance of the city's parks with the consent and approval of the city council when such approval is required.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-39. - Enforcement officials and procedures.

- (a) The city through its representatives, agents and employees, reserves the right to control the use of all city parks, facilities, and trail areas. In general, all city parks, facilities, and trail areas are to be open for the use by its residents; however, the city reserves the right to restrict the use of city parks, facilities, and trail areas or portions thereof for programs, special events, festivals, rentals, construction, and ongoing maintenance and operations.
- (b) No organized programs, camps, special events, festivals, walks, runs, rides, etc., shall take place in a city park, facility and/or trail area without the expressed written consent of the park board, or its designated representative.
- (c) The city through its representatives, agents, and employees, reserves the right to control all activities at any city park, facility and/or trail area and to eject any person(s) who is objectionable or who fails to obey or violates the rules and regulations.
- (d) Park patrons, lessee's agents, servants, employees, assigns, successors, invitees, and licensees at all times agree to fully abide by all federal, state, county, and municipal laws and ordinances.

- (e) No private property may be placed on or in city parks, facilities and/or trail areas without the expressed written consent of the director of public works or his designated representative.
- (f) The city will not assume any responsibility for any private property that may be approved for placement.
- (g) The city shall have the sole right to make any and all decisions regarding the condition and use of the parks, facilities and trail areas.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-40. - Regulations.

- (a) The park and recreation board is authorized to promulgate rules and regulations for the fair and orderly use of the city's park and recreation facilities, equipment and programs, subject to approval of the city council. When, in the opinion of the board, special rules or regulations are needed to properly develop, construct, maintain or operate a particular park, special rules or regulations for the said park may be promulgated by the board and shall be effective upon the approval by the city council and when posted within the particular park.
- (b) It shall be unlawful for any person to violate any such rule or regulation which has been so approved.
- (c) Any person violating any rule or regulation set forth in this article shall be subject to the penalties provided for violations of the provisions of this article.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-41. - Amusements for gain.

No amusement for gain or for which a charge is made can be conducted in a park without the consent of the park and recreation board, and such amusement must be conducted in accordance with any ordinance pertaining thereto. See also section 14-45(a)(26).

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-42. - Park operating policy.

- (a) Except for unusual and unforeseen emergencies, parks shall be open every day of the year during designated hours except as limited by the city council. The opening and closing hours for each individual park shall be posted therein for public information. No person shall be permitted to enter or remain inside any park after the posted closing hours unless written permission for extended use has been obtained from the mayor or his designated representative.
- (b) The city through its representatives, agents and employees, reserves the right to control the use of all city parks, facilities, and trail areas. In general, all city parks, facilities, and trail areas are to be open for the use by its residents; however, the city reserves the right to restrict the use of city parks, facilities, and trail areas or portions thereof for programs, special events, festivals, rentals, construction, and ongoing maintenance and operations.
- (c) Lost articles found by park employees shall be turned over to the city clerk who shall attempt to locate the owners. The city, or its agents or employees, shall attempt to find articles reported as lost.
- (d) The city, park and recreation board and park employees shall not be liable for, or assume any responsibility for, personal property brought into parks nor for the receipt and disbursement of any funds other than city funds. Additionally, the aforesaid persons and entities shall not be responsible for lost or stolen personal property.
- (e) No fees of any kind shall be paid for the use of city parks, other than those specifically approved by the city council.

Sec. 14-43. - Permits.

- (a) Permits for use of specific park areas may be obtained by applying to the city clerk on designated forms. Areas for which permits are required will be posted and held until the time designated on said permits. Permits shall be of two (2) types, daily and seasonal. Permits shall be issued only to persons twenty-one (21) years or older.
- (b) No person shall engage in, participate in, aid, form or organize any assembly or group of people or make any speeches, or conduct any musical program or festivals, in any park, unless a permit has been obtained from the city, and unless such permit is in the possession of the person in charge of or leading such activity; provided, however, that the provisions hereof shall not apply to the activities of any governmental agency within the scope of its functions.
- (c) Applications for a park permit shall be filed with the park and recreation board through the city clerk at city hall not less than one (1) week nor more than one hundred (100) days before the date on which the proposed activity is to occur. Such application shall state the following:
  - (1) The name, address and telephone number of the person or organization to whom the permit is to be issued. Identification satisfactory to the city clerk or her representative must be provided by the applicant.
  - (2) If the activity is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible head of such organization.
  - (3) The name, address and telephone number of the person who will be the sponsor of such activity and who will be responsible for the conduct of the participants and compliance with these rules. Identification satisfactory to the city clerk or her representative must be provided by the applicant.
  - (4) The date when such activity is to be conducted.
  - (5) The park or portion thereof for which such permit is desired.
  - (6) An estimate of the anticipated attendance.
  - (7) The times when such activity will start and end.
- (d) The park and recreation board, or the designated city official, shall grant and issue such park permit if:
  - (1) The proposed activity or use of the park will not unreasonably interfere with, or detract from, the general public enjoyment of the park.
  - (2) The proposed activity and use will not unreasonably interfere with, or detract from, the promotion of public health, welfare, safety and recreation.
  - (3) The facilities desired have not been reserved for other use at the day and times requested in the application.
  - (4) The conduct of such activity will not substantially interrupt the safe and orderly movement of traffic.
  - (5) The proposed activity or use will not entail unusual, extraordinary or burdensome expense, and/or interfere with normal police protection or maintenance operations by the city.
  - (6) The conduct of such activity is not reasonably likely to cause injury to persons or property, incite violence, crime or disorderly conduct.

- (7) Such activity is not to be held for the sole purpose of advertising any product, goods, or event, and is not designed to be held purely for private profit.
  - (8) The issuance of such permit shall not result in crowded or congested conditions due to the issuance of prior permits for the same day, or due to the anticipated number of attendees for the planned event.
  - (9) The proposed activity, use and/or equipment are deemed not to be a safety or liability issue.
  - (10) The sponsor/permit holder is responsible to see that all activities are properly controlled; all rules are enforced, and must have a designated contact person(s) of authority on site at all times.
  - (11) The sponsor/permit holder agrees that he/she will, to the extent possible, take every action necessary to prevent any and all disorderly or boisterous conduct or immoral practices of any kind in or about the premises by its agents, servants, employees, assigns, successors, invitees and licensees.
  - (12) The city through its representatives, agents, and employees, may revoke any permit previously granted at any time if it is determined that the application for permit contained any misrepresentation or false statement, or that any condition set forth in the policies governing the permit is not being complied with, or that the safety of the participants in the activities of the applicant/permit holder or other patrons of or visitors to the park, facility and/or trail area is endangered by the continuation of such activity.
- (e) Each park permit shall state the following:
- (1) Date of such activity.
  - (2) Park, or portion thereof, to be used.
  - (3) Times when such activity will start and end.
- (f) Applications for athletic field seasonal permits will be received and the closing dates therefor may be set at the discretion of the park and recreation board, with the approval of the city council. The board, with the approval of the city council, may establish a schedule of priorities to be adhered to in the event that the number of such applications exceed the available facilities.
- (g) Daily permits shall be issued on a first-come, first-served basis, but no daily permit shall be issued if it would create a conflict with any seasonal permits.
- (h) The park and recreation board may impose such reasonable limitations, conditions and restrictions, relating to time, space, priority or any other matter, consistent with or not specifically prohibited by these provisions, as the board deems necessary or proper in authorizing the issuance of any permit.
- (i) Within twenty-one (21) days after receipt of an application, the park and recreation board shall apprise an applicant in writing of its reasons for refusing a permit, and any aggrieved person shall have the right to appeal in writing within twenty (20) days to the city council, which shall consider the application under the standards set forth in subsection (d) hereof and sustain or overrule the board's decision within twenty (20) days of the city's timely receipt of the appeal. The decision of the city council shall be final.
- (j) A permit holder shall be bound by all park rules and regulations and all applicable ordinances fully as though the same were inserted in said permits.
- (k) The person or persons to whom a permit is issued shall be liable for any loss, damage or injury sustained by any person whatever by reason of the negligence of the person or persons to whom such permit shall have been issued.

- (l) The park and recreation board or city council shall have the authority to revoke a permit upon a finding of violation of any ordinance or regulation or upon good cause shown. The mayor shall have the authority to suspend a permit for cause subject to further review by the city council.
- (m) No person shall interfere with any group whose exclusive use of a park or portion thereof has been granted by permit, nor shall any person interfere with any park employee in the performance of his duties.
- (n)
  - (1) During all supervised activity sponsored by the city, an accident report will be filed out on all accidents. If the injured requires professional medical attention, the EMS are to be called and on their arrival they will be in charge.
  - (2) If an accident should occur within the city parks involving a non-supervised activity, it shall be the responsibility of the injured person or the parent or guardian of the injured person to report the accident to the city clerk's office at city hall or to the park ranger on duty.
- (o) It shall be a violation if any person or group of persons refuses to leave a reserved site and allow the permit holder exclusive use of the reserved site.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-44. - Traffic regulations.

- (a) No person in a park shall:
  - (1) Fail to comply with all applicable provisions of the state motor vehicles traffic laws in regard to equipment and operation of vehicles, together with such provisions as are contained in all ordinances.
  - (2) Fail to obey all police officers and park employees, such persons being hereby authorized and instructed to direct traffic whenever and wherever needed in the parks and on the highways, streets or roads immediately adjacent thereto in accordance with the provisions herein and such supplementary regulations as may be issued subsequently by the park and recreation board.
  - (3) Fail to observe all traffic signs indicating speed, direction, caution, stopping or parking, and all others posted for proper control and to safeguard life and property. Parking shall only be allowed in designated parking areas and in accordance with the posted instructions thereat.
  - (4) Ride or drive a vehicle at a rate of speed exceeding ten (10) miles an hour, except upon such roads as the park and recreation board may designate by posted signs.
  - (5) Drive any vehicle on any area except the paved park roads or parking areas, or such other areas as may on occasion be specifically designated as temporary parking areas by the park and recreation board.
  - (6) Enter any city park, facility and/or trail area with any truck, bus, or other commercial vehicle exceeding a gross weight of (eight thousand (8,000) pounds) unless specific permission in writing is obtained from the director of public works or his/her designee. This prohibition does not include vehicles delivering to or coming from the parks, facility and/or trail area, or vehicles engaged in work for the city.
  - (7) Leave a parked vehicle in a park, facility and/or trail area for the purpose of carpooling or to advertise to sell said vehicle.
  - (8) Use any motorcycle, motorbike, motor scooter, ATV or similar vehicle in any park except where used to transport handicapped persons.
  - (9) Operate a golf cart and/or utility cart on or in a park, facility and/or trail area without the expressed written consent of the director of public works or his designee.

- (10) Bring a bicycle(s) into any areas of a park, facility and/or trail areas that have been marked by signs indicating that bicycle usage is prohibited.
- (11) When riding a bicycle in a city park, facility and/or trail area shall not fail to wear an approved helmet (Snell or ANSI standards) in the case of all children under the age of seventeen (17).
- (12) Leave a bicycle lying on the pavement or in any place or position where other persons may trip over it or be injured by it.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-45. - Other prohibited acts.

- (a) It shall be unlawful for any person using a city park to either perform or permit to be performed any of the following acts:
  - (1) Willfully mark, deface, disfigure, injure, tamper with, or displace or remove, any building, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities or parts or appurtenances thereof, signs, notices or placards whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
  - (2) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter or thing, liquid or solid, which will or may result in the pollution of said waters.
  - (3) No person shall litter or permit to be littered any of the grounds, driveways, buildings or other structures of the parks, facilities, and/or trail areas by scattering, dumping, or leaving paper, garbage, cans, broken glass, bottles, ashes, rubbish, waste or other trash on the park property. All rubbish or waste shall be placed in the proper receptacles where they are provided. Where receptacles are not provided, all rubbish or waste shall be carried away from the park, facility and/or trail area by the person responsible for its presence and properly disposed of elsewhere.
  - (4) Bring in or dump, deposit or leave any bottles, broken glass, ashes, paper, boxes, cans dirt, rubbish, waste, garbage, refuse, or other trash in a park.
  - (5) Carry, possess or drink any alcoholic beverage in any park unless the person has obtained a special permit issued on a temporary basis by the city council at its discretion after the city council receives the recommendation of the park and recreation board and the liquor license committee regarding the issuance of such a permit. Application for such permit shall be submitted not less than thirty-five (35) days prior to the date of the event.
  - (6) Enter any park, facility and/or trail while in an intoxicated condition nor shall that person remain therein while in an intoxicated condition whether intoxicated at the time of entering the park, facility and/or trail area or become intoxicated after entering.
  - (7) Sell alcoholic beverages of any kind in a park, facility and/or trail area except when acting pursuant to a concession/vending contract.
  - (8) Prevent any person from using any park, or any of its facilities, or interfere with such use in compliance with this article and the rules applicable to such use.
  - (9) Swim, bathe, or wade in any waters or waterways in or adjacent to any park, except in such waters and at such places as are provided therefor, and in compliance with such regulations as are herein set forth or may be hereafter adopted.
  - (10)

No person shall be indecently exposed or nude in a park, facility and/or trail area except in the normal use of a restroom.

- (11) Hunt, molest, harm, trap, kill, shoot at any animal, reptile or bird; or remove the eggs or nest or young of any bird; except snakes known to be deadly poisonous in any park, facility, and/or trail area.
- (12) Play or practice golf in any area of a park.
- (13) Take part in or abet the playing of any games involving thrown or otherwise propelled objects such as stones, arrows, javelins, lawn darts, model airplanes, and horse shoes except in areas set apart for such forms of recreation.
- (14) Playing rough or comparatively dangerous games such as football, soccer, and rugby except on the fields and courts or areas provided therefor. Roller-skating shall be confined to those areas specifically designated for such activity.
- (15) Take part in or setup/construct the playing of any games which require driven stakes, excavation, or other physical disturbance of the park grounds; except in areas set apart for such forms of recreation or upon the written approval of the director of public works or his designated representative.
- (16) Set up tents, shacks or any other temporary shelter, including the use of a vehicle, for the purpose of overnight camping, without having first secured a permit from the park and recreation board.
- (17) Ride or otherwise bring any horse, mule, pony or other such riding animal into any of the parks, facility and/or trail area, except where posted for use of special trails, etc., or unless special written permission for said use is obtained in advance from the director of public works or his designated representative. Where permitted, horses, mules, ponies, or other such riding animal shall be thoroughly broken and properly restrained, and ridden with due care, and shall not be allowed to graze or go unattended.
- (18) Allow or be responsible for the entry of a dog or other domestic animal into areas other than automobile parking concourses and walks immediately adjacent thereto, and in such other areas as may be clearly marked by signs bearing the words "Domestic Animals Permitted in This Area." Nothing herein shall be construed as permitting the running of dogs at large. All dogs in those areas where such animals are permitted shall be restrained at all times on adequate leashes not greater than six (6) feet in length.
- (19) Allow any animal to be tied to any bush, tree, shrub, or to any park structure. Any person bringing an animal into the parks, facilities and/or trail areas shall remove and dispose of all feces left by such animal. No vicious animal of any kind shall be brought into the park, facility and/or trail area at any time even though restrained as described above.
- (20) Hold a religious worship service on park grounds.
- (21) Solicit or post bills or signs in the park.
- (22) Damage, cut, carve, transplant or remove any tree or plant or injure the bark, or pick the flowers or seeds, of any tree or plant. Nor shall any person attach any rope, wire, or other contrivance to any tree or plant. A person shall not dig in or otherwise disturb grass areas, or in any other way injure or impair the natural beauty or usefulness of any area. No person shall remove any wood, living or dead, from any park unless authorized to do so by the director of public works.
- (23)

Build or attempt to build, a fire except in such areas and under such regulations as may be designated by the Black Jack Fire Department and director of public works. No person shall drop, throw or otherwise scatter lighted matches, burning cigarettes or cigars, tobacco paper or other inflammable material, within any park or on any highway, road or street abutting or contiguous thereto. No person who has built any fire shall leave the place where the fire was built without first completely extinguishing the fire.

- (24) In a park, facility and/or trail, except as expressly permitted by the Black Jack Fire Department and the director of public works, bring or have in his/her possession, or set off or otherwise cause to explode or discharge or burn, any firecracker, torpedo, rocket, or other fireworks or explosives of inflammable material; nor shall any person throw them into any such area from land or highway adjacent thereto. This prohibition includes any substance, compound, mixture, or article that in conjunction with any other substance or compound would be dangerous.
- (25) Bring or prepare any food or beverage into the park for public sale for the purpose of fundraising by any individual, group, or organization.
- (26) Bring into the park or use any amusement rides, inflatables, games, booths, activities, portable barbeque pits bands and DJs, etc., unless specifically approved in writing by the director of public works or his designee.
- (27) Ride upon or use roller skates, roller blades, in-line skates or skate boards in any park carelessly or recklessly or at a speed faster than is reasonably proper, or in a manner so as to endanger the life, limb, or property of the rider or user or of any other person.
- (28) Smoke except in open-air facilities in the parks.
- (29) Solicit alms or contributions for any purpose whatsoever, whether public or private within any of the parks, facilities, and/or trail areas, except by written permission of the public works director or his designated representative.
- (30) Offer to sell or exchange any article or thing, or do any hawking, peddling or soliciting of sales, or buy or offer to buy any article or thing in any of the parks, facilities, and/or trail areas, except when acting pursuant to a concession/vending contract or with the written permission of the public works director or his designated representative.
- (31) Paste, glue, tack, place signs on windshields or cars or otherwise post any sign, placard, advertisement or inscription whatsoever in the park, or to erect or cause to be erected any sign in the park or highways or roads adjacent to a park, facility and/or trail area without the expressed written consent of the public works director or his designated representative.
- (32) Announce, advertise or call the public attention in any way to any article or service for sale or hire without the expressed written consent of the director of public works or his designated representative.
- (33) Campaign or solicit for petition whether public or private within any of the parks, facilities, and/or trail areas, except by written permission of the director of public works or his designee, when such solicitations are of direct benefit to the city's purposes and programs.
- (34) Enter an area or roadway in a park, facility and/or trail area closed to public access unless authorized by the director of public works or his designated representative.
- (35) Gamble, or participate in or abet any games of chance in a park, facility and/or trail area.
- (36) Take part in the taking of organized photo, film or video shoots, etc., without the expressed written consent of the director of public works or his designated representative.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-46. - Employees.

The provisions of these rules and regulations shall not be applicable to city employees or contractors of the city, while actually engaged in their official duties, nor shall the provisions of these rules and regulations be applicable to city officials while attending to park business.

(Ord. No. 1069, § 2, 1-20-15)

Sec. 14-47. - Violations.

Any person violating any of the provisions of this article, or any lawful rules or regulations promulgated pursuant hereto, shall be guilty of an offense, and all persons violating the same shall be subject to a fine not exceeding five hundred dollars (\$500.00), and such imprisonment not exceeding three (3) months, or both such fine and imprisonment plus the cost of the suit.

(Ord. No. 1069, § 2, 1-20-15)

Chapter 15 - PEDDLERS AND SOLICITORS<sup>[1]</sup>

*Footnotes:*

— (1) —

**State Law reference—** *Power of city to license, regulate, etc., peddlers, etc., RSMo. § 94.110.*

ARTICLE I. - IN GENERAL

Sec. 15-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Peddler* shall include any person, and any individual, entity or business on whose behalf such person is acting, traveling by foot or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying, or transporting goods or services, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a vehicle or any other type of conveyance.

*Solicitor* shall include any person, and any individual, entity or business on whose behalf such person is acting, whether such person is trading by foot or any type of conveyance, from place to place, from house to house, or from street to street for the purpose of soliciting contributions, making or attempting to make sales of goods, services or other merchandise, or taking or attempting to take orders for the sale of goods, services or other merchandise for future delivery whether such person collects advance payments on such sales or not, or for the purpose of promoting any cause whatsoever.

(Ord. No. 71, § 2, 7-11-72; Ord. No. 567, § 1, 5-2-95; Ord. No. 771, § 1, 11-19-02)

Sec. 15-2. - Loudspeakers, etc.

No peddler or solicitor shall use any loudspeaking, radio or sound amplifying system upon any of the streets, alleys, parks, or other public places of the city, or upon any private premises in the city, where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon

the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, merchandise or services which such peddler or solicitor proposes to sell.

(Ord. No. 71, § 6(a), 7-11-72; Ord. No. 567, § 2, 5-2-95)

Sec. 15-3. - Fraud, etc.

No peddler or solicitor shall commit fraud or misrepresentation or make a false statement in the course of carrying on his business as peddler or solicitor.

(Ord. No. 71, § 6(b), 7-11-72; Ord. No. 567, § 3, 5-2-95)

Sec. 15-4. - Conducting business so as to menace health, public safety, etc.

(a) No peddler or solicitor shall act in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.

(b) No peddler or solicitor may solicit within any public right-of-way.

(Ord. No. 71, § 6(c), 7-11-72; Ord. No. 567, § 4, 5-2-95; Ord. No. 771, § 2, 11-19-02)

Sec. 15-5. - Hours of operation.

No peddler or solicitor shall solicit or door to door canvass or peddle between the hours of 8:00 p.m. and 9:00 a.m.

(Ord. No. 71, § 6(d), 7-11-72; Ord. No. 567, § 5, 5-2-95; Ord. No. 771, § 3, 11-19-02)

Sec. 15-6. - Refusal to leave premises.

No peddler or solicitor shall fail or refuse to leave any building or any enclosed or improved real estate, lot or parcel of ground when requested to leave by the person solicited, the owner thereof, or the legal occupant of such premises.

(Ord. No. 71, § 6(e), 7-11-72; Ord. No. 567, § 6, 5-2-95)

Sec. 15-7. - Entry onto posted property.

No peddler or solicitor shall attempt to enter on the premises, public or private, that are posted forbidding peddlers or solicitors.

(Ord. No. 71, § 6, 7-11-72; Ord. No. 567, § 7, 5-2-95)

Sec. 15-8. - Exemptions.

(a) Section 15-26 of this Code shall not apply:

- (1) Where such solicitation is in the form of collections or contributions at the regular masses or services at any church or lodge.
- (2) To any person campaigning for public office or persons helping the candidate of their choice.
- (3) To residents of the city under eighteen (18) years of age soliciting on a behalf of a non-profit organization.
- (4) To any peddler or solicitor who calls upon a resident of the city in response to a prior invitation to do so by the resident.
- (5) To peddlers or solicitors who contact only commercial or other such business establishments and public institutions or private schools located within the city.
- (6)

To persons selling to or soliciting orders from retail dealers for resale, wholesalers, developers, buildings, or manufacturers for manufacturing purposes or to bidders for public works or supplies.

(b) Section 15-29 of this Code shall not apply:

- (1) To any church or fraternal lodge, not operated for pecuniary profit, where no part of the net earnings of such inures to the benefit of any person, private shareholder or individual, and where the solicitation of such organization shall be conducted by members among members thereof, voluntarily and without remuneration for such activities.
- (2) To any organization conducting a charitable solicitation campaign in the city, provided the organization shall have obtained a charitable solicitation permit from the department of revenue, division of licenses for the county as proof of same.

(c) Sections 15-2, 15-9 and 15-26 through 15-35 of this Code shall not apply to any person canvassing solely for a charitable, political, religious or other non-commercial cause.

(Ord. No. 71, § 7, 7-11-72; Ord. No. 567, § 8, 5-2-95; Ord. No. 771, § 4, 11-19-02)

#### Sec. 15-9. - Enforcement.

It shall be the duty of any police officer of the city to require any person seen peddling and who is not known by such officer to have a valid permit, to produce a permit or evidence of exemption pursuant to section 15-8 of this Code, and to enforce the provisions of this chapter against any person, and/or any individual, entity or business on whose behalf such person is acting, found to be violating the same.

(Ord. No. 71, § 8, 7-11-72; Ord. No. 567, § 9, 5-2-95; Ord. No. 771, § 5, 11-19-02)

#### Sec. 15-10. - Records and reports.

The marshal shall report to the city clerk all violations of this article and the city clerk shall maintain a record for each permit issued and record the reports of violation therein.

(Ord. No. 71, § 9, 7-11-72)

#### Sec. 15-11. - Pedestrians soliciting rides or business.

- (a) No person shall stand in a roadway for the purpose of soliciting a ride, employment, charitable contribution or business from the occupant of any vehicle.
- (b) No person shall stand on or in proximity to a road for the purpose of soliciting the watching or guarding of any vehicle parked or about to be parked on a road.

(Ord. No. 771, § 6, 11-19-02)

Secs. 15-12—15-25. - Reserved.

#### ARTICLE II. - PERMIT

#### Sec. 15-26. - Required.

It shall be unlawful for any person to engage in the business of peddler or solicitor within the city without first obtaining a permit as provided herein. It shall also be unlawful for any individual, entity or business to permit a person to act on its behalf as a peddler or solicitor within the city without the individual, entity or business first obtaining a permit as provided herein.

(Ord. No. 71, § 1, 7-11-72; Ord. No. 567, § 10, 5-2-95)

Sec. 15-27. - Application.

An applicant for the permit required by this article must file with the city clerk a sworn application in writing and in duplicate, on a form furnished by the city clerk, which form shall require the following information and materials:

- (1) Name and description of the applicant;
- (2) Address (legal and local);
- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) If a vehicle is to be used, a description of the same, together with license number or other means of identification;
- (6) Two (2) photographs of the applicant, taken within sixty (60) days immediately prior to the date of the filing of the application, which picture shall be two (2) inches by two (2) inches showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (7) The names of at least two (2) reliable property owners of the county who will certify as to the applicant's good character and business responsibility;
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor, or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor.

(Ord. No. 71, § 3, 7-11-72)

Sec. 15-28. - Investigation and issuance.

- (a) Upon receipt of such application, the original shall be referred to the marshal, who shall cause such investigation of the applicant's business and moral character to be made as he deems necessary for the protection of the public good. If the applicant is found to be satisfactory, the application shall be returned to the city clerk with the marshal's endorsed approval for issuance of the permit.
- (b) If, as a result of such investigation, the applicant's character of business responsibility is found to be unsatisfactory, the marshal shall endorse on such application his disapproval of his reasons for the same, and return the said application to the city clerk, who shall notify the applicant that his application is disapproved and that no permit will be issued.
- (c) The city marshal shall return the application, properly endorsed, to the city clerk within a twenty-day period.

(Ord. No. 71, § 3.1, 7-11-72)

Sec. 15-29. - Fees.

- (a) No permit shall be issued pursuant to the provisions of this article until the fee as set forth in subsection (b) below is paid to the city.
- (b) The fee for issuing a permit described in subsection (a) above shall be at a rate of ten dollars (\$10.00) per month for each month, or any part of a month, in which a peddler or solicitor engages in business within the city; provided, however, that the minimum fee shall be thirty dollars (\$30.00).

(Ord. No. 71, § 5, 7-11-72; Ord. No. 279, § 3(a), 2-1-83; Ord. No. 849, § 1, 2-15-05)

**Editor's note—** Ord. No. 279, adopted Feb. 1, 1983, amending this section, was approved at an election held Anr. 5. 1983.

Sec. 15-30. - Term.

A permit issued pursuant to the provisions of this article shall expire one year from its date of issuance.

(Ord. No. 71, § 5(c), 7-11-72; Ord. No. 279, § 3(a), 2-1-83)

**Editor's note—** Ord. No. 279, adopted Feb. 1, 1983, amending this section, was approved at an election held Apr. 5, 1983.

Sec. 15-31. - Display.

Peddlers and solicitors shall exhibit their permits at the request of any citizen. If the peddler or solicitor be exempted from the permit requirement per Section 15-8 of this Code he shall provide evidence of such exemption at the request of any citizen.

(Ord. No. 71, § 4, 7-11-72)

Sec. 15-32. - Unauthorized use.

No permit issued under the provisions of this article shall be used at any time by any person other than the one to whom it was issued.

(Ord. No. 71, § 5(b), 7-11-72; Ord. No. 279, § 3(a), 2-1-83)

**Editor's note—** Ord. No. 279, adopted Feb. 1, 1983, amending this section, was approved at an election held Apr. 5, 1983.

Sec. 15-33. - Revocation.

- (a) Permits issued under provisions of this article may be revoked by the municipal court after the filing of an information by the prosecuting attorney and a hearing thereon for any of the following causes:
- (1) Fraud, misrepresentation, or false statement contained in the application for permit;
  - (2) Fraud, misrepresentation or false statement made in the course of carrying on his business as peddler;
  - (3) Any violation of this article;
  - (4) Conviction of any crime or misdemeanor involving moral turpitude;
  - (5) Conducting the business of peddling in an unlawful manner or in such manner as to constitute a breach of the peace or to constitute a menace to the health, safety or general welfare of the public.
- (b) The holder of a permit must be given a copy in writing, setting forth specifically the grounds of complaint and the notice of hearing at least forty-eight (48) hours in advance of any hearing on the prosecuting attorney's request for revocation or suspension or a permit.

(Ord. No. 71, § 10, 7-11-72; Ord. No. 567, § 11, 5-2-95)

Sec. 15-34. - Appeals.

Any person aggrieved by the action of the marshal or the city clerk in the denial of an application for permit required by this article shall have the right of appeal to the city council. Such appeal shall be taken by filing with the city council within thirty (30) days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The city council shall set a time and place for a hearing on such appeal and notice of such hearing

shall be given to the appellant in the same manner as provided in Section 15-33(b) of this Code for notice of hearing on revocation. The decision and order of the city council on such appeal shall be final and conclusive.

(Ord. No. 71, § 11, 7-11-72)

Sec. 15-35. - Not an endorsement.

No person holding a permit shall advertise, represent or hold out in any manner, that such permit is an endorsement by the city or by any member of the city administration or city council thereof, or by any organization which any of the same may represent.

(Ord. No. 567, § 12, 5-2-95)

Sec. 15-36. - Penalties.

Any person, or any individual, entity or business on whose behalf such person is acting, violating any provision of this chapter (including, without limitation, activities which are ground for suspension or revocation as contained in section 15-33), shall upon conviction thereof, be an offense in accordance with section 1-13 of the Code.

(Ord. No. 567, § 13, 5-2-95)

## Chapter 16 - PLANNING AND DEVELOPMENT<sup>[1]</sup>

*Footnotes:*

--- (1) ---

**Cross reference**— *Definitions and rules of construction generally, § 1-2; buildings and building regulations, Ch. 6; subdivisions, App. B.*

## ARTICLE I. - IN GENERAL

Sec. 16-1. - Standards, specifications, design requirements for sanitary sewers, storm drainage facilities, floodplains.

- (a) *Applicability.* This section shall apply to all public and private property within the boundaries of the City of Black Jack and shall be applicable to the construction of all buildings, structures, improvements and/or modifications to any existing building, structure, improvements on land and any disturbance of terrain, including, but not limited to the clearing, grading, excavation, filling, removal of topsoil and/or changing of the contour of any land, within the boundaries, current and future, of the City of Black Jack.
- (b) *Compliance.* Any person or entity who constructs improvements on or disturbs land within the boundaries of the City of Black Jack shall comply with the most recent rules and regulations promulgated by Metropolitan St. Louis Sewer District regarding the standards, specifications and design requirements for sanitary sewers, storm drainage facilities and flood plains.
- (c) *Compatibility with other regulations.* This section is not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this section should be considered minimum requirements, shall be liberally construed in favor of the governing body, and where any provision of this section imposes restrictions different from those

imposed by any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health, safety or the environment shall be considered to take precedence.

- (d) *Penalties for noncompliance.* Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than five hundred dollars (\$500.00), and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the city attorney or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 881, §§ 1—3, 5, 4-18-06)

Secs. 16-2—16-15. - Reserved.

## ARTICLE II. - PLANNING COMMISSION<sup>[2]</sup>

*Footnotes:*

-- (2) --

**State Law reference—** *Planning commission authorized, RSMo. § 89.310.*

Sec. 16-16. - Membership.

- (a) The city's planning commission shall consist of at least five (5) and no more than nine (9) citizen members and the mayor and a member of the city council, with equal representation from the wards where practicable. Any appointee shall have been a resident of the city for not less than one (1) year preceding the date of their appointment and holder of no other office in the city administration. The mayor and a member of the city council, selected by the city council, from among its members shall be nonvoting members of the commission.
- (b) The members of the commission shall be appointed by the mayor with the consent and approval of the majority of the members of the city council at the first regular meeting of the city council in April of each year or as soon thereafter as possible. The term of office shall commence on July 1.
- (c) The mayor and the member of the city council shall serve during a term concurrent with their term in office.
- (d) All citizen members of the commission shall serve without compensation. The term of each citizen member shall be for four (4) years. Current terms shall be in effect upon passage of this article. Any vacancy shall be filled for the unexpired term by appointment.
- (e) Any citizen member of the commission may be removed by a majority of the city council, at any time, for cause stated in writing and after public hearing.

(Ord. No. 157, §§ 3—5, 10-5-76; Ord. No. 256, § 1, 6-2-81; Ord. No. 1001, § 1, 6-15-10)

**State Law reference—** *Planning commission membership, RSMo. § 89.320.*

Sec. 16-17. - Officers.

The planning commission shall elect from its members a chairman, vice-chairman and secretary, at its first meeting after July 1 or as soon thereafter as practicable and the term of office shall be for one (1) year with eligibility for re-election.

(Ord. No. 157, § 2.8, 10-5-76)

**State Law reference—** *Planning commission officers, RSMo. § 89.320.*

Sec. 16-18. - Meetings.

The planning commission shall hold regular business meetings once every six (6) months at a date and time established by the chairman with the consent and agreement of the members and a majority of the commission shall constitute a quorum for the transaction of business.

(Ord. No. 157, § 2, 10-5-76; Ord. No. 1001, § 2, 6-15-10; Ord. No. 1035, § 1, 6-19-12)

Sec. 16-19. - Staff and finances.

- (a) The planning commission may, subject to the approval of the mayor and a majority of the members of the city council, employ such persons as may be necessary to carry out the provisions of this article.
- (b) The commission shall submit an annual budget to the city council by April 1 of each year. The city council shall annually fix a sum to be used by the commission for operating expenses, and such fund shall be under the management and jurisdiction of the commission, however, the commission shall at no time incur expenses or obligate the city for any amount in excess of the appropriation made by the city council for operating expenses as provided for in this section. Publication fees shall not be part of the operating budget.

(Ord. No. 157, §§ 2.11, 2.12, 10-5-76)

Sec. 16-20. - Reports.

The planning commission shall make monthly reports, including minutes of all meetings, to the mayor and city council, covering activities, investigations, transactions and recommendations, and such other reports relative thereto as may be deemed proper or as required by the mayor or city council. These reports shall be public records.

(Ord. No. 157, § 2.9, 10-5-76)

Sec. 16-21. - General powers and duties.

(a) The planning commission shall:

- (1) Adopt and promulgate rules, regulations and procedure, not inconsistent with the law and ordinances of the city, for the operation of said commission and the carrying out of the provisions of this article.
- (2) Make recommendations to the mayor and the city council related to:
  - a. The locations, length, width, naming or arrangement of any street, boulevard, highway, alley, waterway, bridge, viaduct, park, playground or other public places or improvements.
  - b. The platting of public property into lots, plots, streets, boulevards, highways, waterways, alleys, transportation, or other channels for communication of any kind.
  - c. The design, location and grouping of public buildings.
  - d. The design and location of power and lighting plants.
  - e. The design and location of memorials, works of art.
  - f. The design and location of street lighting standards.
  - g. The location of telephone, telegraph and power poles or lines.
  - h. Adoption and promulgation of rules, regulations, procedure and minimum standards for the subdivision of land within the city.
  - i. Subdivision plats or plans submitted to it by the mayor and the city council, or its designee.

- (3) Hear all applications and hold public hearings for special use permits, planned commercial districts, and any other change of zoning and forward such applications to the mayor and the city council with its recommendations. The commission shall within forty-five (45) days from the date on which such application is referred, render a full report to the mayor and the city council regarding its findings and recommendations. A majority of the city council may extend the period of time in which the report is to be submitted upon written request from the chairman of the commission.
- (4) Make recommendations to the mayor and the city council on amendments, modifications or revisions of the zoning ordinance.
- (5) Study and analyze such national, state, county, and municipal legislation as may be necessary in carrying out its duties.
- (6) Perform such other duties as may be provided by law, ordinance or resolution of the city council.
- (b) The recommendation of the commission shall not be binding on the city council which may approve or disapprove the commission's findings and recommendations except in case of an adverse report by the commission, such shall not become effective except by a favorable vote of two-thirds of all of the members of the city council; however, no zoning ordinance or any modification, amendment, or revision thereof, shall be considered by the city council until and unless the same shall have been first submitted to the commission for its examination and recommendation thereof.

(Ord. No. 157, §§ 2.1—2.7, 10-5-76; Ord. No. 283, Title, 3-15-83; Ord. No. 557, § 1, 1-3-95)

**Editor's note—** The title of Ord. No. 283, adopted Mar. 15, 1983, deleted provisions relating to the design and location of billboards or projection signs, included herein as subsection (a)(2)h, renumbering former subparagraphs i. and j. as h. and i.

**Cross reference—** Signs, Ch. 17.5.

**State Law reference—** Powers, etc., of planning commission, RSMo. § 89.370 et seq.

## Chapter 16.5 - ARCHITECTURAL REVIEW BOARD<sup>[1]</sup>

*Footnotes:*

— (1) —

**Cross reference—** *Definitions and rules of construction generally, § 1-2; administration, §§ 2-118, 2-142, 2-220, 2-222; building and building regulations, ch. 6; drainage and flood control, ch. 7; erosion, grading and sediment control, ch. 7.5; miscellaneous provisions and offenses ch. 11; planning and development, ch. 16; signs and advertising devices, ch. 17; subdivision, App. B; zoning, App. C.*

## ARTICLE I. - IN GENERAL

### Sec. 16.5-1. - Architectural review board; purpose.

An architectural review board is hereby created and established for the purpose of promoting high standards of architectural design of buildings within the city, thereby serving the general welfare of the community. The architectural review board will review certain building plans for new construction, exterior renovations, or additions as designated herein. The intent of architectural review is to attempt to insure that the architectural scheme of proposed new construction, exterior renovation, or additions generally conform with the style, design and size of surrounding structures, are in harmony with the architectural scheme of the building, site, and surrounding area, will be conducive to the proper architectural development of the city, and, to the greatest extent feasible, will preserve living trees.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-2. - Members of the board; qualifications.

- (a) The board shall consist of five (5) members. Each member shall be appointed by the mayor, with the approval of the city council, for a term of three (3) years, provided that the terms of the first three (3) members appointed shall be for one (1), two (2) and three (3) years, respectively, and the last two appointed shall be for two (2) years and three (3) years, respectively. Members may be reappointed. The mayor may, by written approval of the city council, remove any member of the board for misconduct or neglect of duty.
- (b) Vacancies occasioned by removal, resignation or otherwise, shall be reported to the mayor, and shall be filled in like manner as original appointments, except that the term of office is restricted to the unexpired term of office.
- (c) No fewer than four (4) members of the board shall be residents of the city and shall have been residents of the city for at least one year immediately prior to their appointment. The fifth member of the board, if not a resident of the city meeting the qualifications set forth in the preceding sentence, shall be a licensed architect, who need not be a resident of the city. No elected official or employee of the city shall be a voting member of said board. No member of the board who has any direct financial or property interest in the property or project affected by an application shall vote on the approval or disapproval of an application submitted to the board for that project.
- (d) Members of the board shall receive no compensation for their services as such, provided, however, that the licensed architect member may be compensated for his or her service as approved by the city council.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-3. - Meetings of the board.

Meetings of the board shall be held at the call of the chairman, who shall be designated by the mayor, and at such other times as the board may determine. Three (3) members of the board shall constitute a quorum, and, in the absence of the chairman, the member next in seniority shall be the acting chairman. Meetings of the board may also be called by the mayor. No official action of the board shall be taken except at a meeting open to the public. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or if failing to vote, indicating such fact. A majority of the board may adopt rules and regulations to govern the procedure before the board.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-4. - Building and sign applications submitted to the board.

- (a) Every application for a building or sign permit shall be submitted, together with schematic site plans, building elevations, color renderings and/or scaled architectural plans, a tree preservation plan (as required under chapter 25 of the Code), and a landscaping plan, to the board before being approved by the director of public works. Each application submitted to the board shall be accompanied by the payment of an architectural review fee in the amount of the greater of fifty dollars (\$50.00) or the prevailing wage fee charged by the licensed architect board member. No building permit or sign permit, other than for those projects which are excluded from the provisions hereof, shall be issued without approval (or deemed approval) of the architectural review board.
- (b)

Notwithstanding anything to the contrary contained elsewhere in this chapter, applications for building or sign permits for projects that will not affect the outward appearance of any building or for projects affecting only (i) alterations and repairs not affecting the outward appearance of a building; (ii) signs which meet the requirements of chapter 17.5 of the Code; (iii) awning or window replacement; (iv) facade changes not affecting the character of a building; (v) alterations relating only to fences or retaining walls otherwise meeting the requirements of the Code; and (vi) landscaping projects not more than two (2) feet in height, need not be submitted to the board for approval.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-5. - Review procedure.

- (a) The board shall review each application submitted in accordance with this chapter for (i) conformity with the style, design and size of surrounding structures; (ii) harmonization with the architectural scheme of the building, site, and surrounding area; (iii) conduciveness to the proper architectural development of the city; and (iv) maximization of the preservation of living trees.
- (b) Except as otherwise provided herein, the board shall review and act upon sign and building permit applications referred to it within sixty (60) days of the date on which such application is filed with the board unless the applicant and board jointly agree to extend the time for review. In reviewing applications that are part of a comprehensive project involving review by the planning commission, the board shall make a good faith effort to review and act upon such application so that the action of the board will coordinate with the review and action of the planning commission, provided that the review process does not exceed the time period described above.
- (c) If the board fails to take action within the time prescribed herein, it shall be deemed to have approved the application.
- (d) If, in the opinion of the board, the proposed structure or sign will not so conform, the chairman shall call a meeting of the board and notice of the time and place of the meeting shall be given to the applicant. At the meeting the board shall examine the schematic site plans, building elevations, color renderings and/or scaled architectural plans, hear the applicant in reference thereto and any other evidence that may be pertinent.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-6. - Approval by board.

At the meeting required by section 16.5-5, the board shall approve the application if, in its opinion, the proposed structure or sign will meet the standards set forth in section 16.5-5.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-7. - Disapproval by board.

The board shall disapprove the application if it determines that the proposed structure or sign will not meet the standards set forth in section 16.5-5(a), will otherwise constitute an unsightly, grotesque or unsuitable structure or sign in appearance, or will be otherwise detrimental to the welfare of surrounding property or residents, and may make recommendations in regard to said application if it sees fit.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-8. - Appeals.

An appeal from the decision of the architectural review board under this chapter may be taken to the board of adjustment by using the same procedure for an appeal as contained in sections 6-117 through 6-122 of the Code.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-9. - Enforcement and remedies.

- (a) Any person violating any provisions of this chapter may be prosecuted as provided by law for the violation of ordinances of the city and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) for any one offense. Each day a violation continues after service of written notice to state such violation shall constitute a separate offense.
- (b) In addition to the penalties hereinabove authorized and established, the city attorney shall take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of this chapter.

(Ord. No. 904, § 1, 3-6-07)

Sec. 16.5-10. - Validity.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter.

(Ord. No. 904, § 1, 3-6-07)

Secs. 16.5-11—16.5-30. - Reserved.

Chapter 17 - POLICE<sup>[1]</sup>

*Footnotes:*

— (1) —

**Cross reference**— *Definitions and rules of construction generally, § 1-2; alarm systems code, Ch. 3; service charge for false alarms rendered through automatic alarm systems, § 3-9; impersonation of public servants, § 11-83; interference with police officer and resisting arrest, § 11-84; false police alarms, § 11-85; obedience to traffic directions of police department officials, § 20-6; special traffic provisions for authorized emergency vehicles, § 20-11; authority of policemen to direct traffic, § 20-36; traffic violation bureau, § 20-71 et seq.*

Sec. 17-1. - Assistant marshal.

- (a) The mayor, with the consent and approval of a majority of the city council, and the marshal, may appoint an assistant marshal for the city.
- (b) The assistant marshal shall be subject to the orders of the marshal, the mayor and/or the majority of the city council. He shall have the authority and powers possessed by the marshal.
- (c) The assistant marshal shall serve for a term of one year and shall be eligible for reappointment. If the marshal should vacate his office for any reason, the assistant marshal shall serve as acting marshal until the office of marshal has been filled.
- (d) The assistant marshal serves at the pleasure of the mayor and the council and may be removed by either the mayor or a majority of the council. The marshal may suspend the assistant marshal until such time as a hearing may be held before the city council to reinstate or remove the assistant marshal.

(Ord. No. 137, §§ 1—4, 4-22-75)

Sec. 17-2. - Issuance of summons in lieu of arrest

- (a) Any peace officer may, when a suspected violation of a city ordinance occurs in his presence, in lieu of an arrest of the suspected violator, or application for a warrant through the office of the prosecuting attorney, issue a summons to the suspected violator to appear before the appropriate judge at a date and time specified therein.
- (b) If the accused fails to appear as commanded by the summons, a warrant of arrest shall be issued.
- (c) The summons provided for herein shall not be issued in traffic cases which require the use of the Uniform Traffic Ticket, under Missouri Supreme Court Rule 37.
- (d) The summons provided for herein shall be substantially in the following form:

Summons—Department of Police No. 000000

Case No. \_\_\_\_\_ Docket No. \_\_\_\_\_ Page No. \_\_\_\_\_

Complaint

State of Missouri	)	SS
City of Black Jack	)	

In the Municipal Court of the City of Black Jack,

City of Black Jack, Missouri, Plaintiff,

vs.

\_\_\_\_\_, Defendant

\_\_\_\_\_, Defendant's Address

Description:

Race _____	Sex _____	Weight _____
Height _____	Birth Date _____	Age _____
Employer _____		

The CITY OF BLACK JACK, Missouri, to the above-named Defendant:

You are hereby summoned to appear personally before this Court at 4655 Parker Road, Black Jack, Missouri, on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ .m., to answer a complaint (Information) charging you with

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

If you fail to appear a warrant will be issued for your arrest.

All done in the CITY OF BLACK JACK, Missouri, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

Above complaint is true as I verily believe.

\_\_\_\_\_  
(Police Officer) (Signature)

Subscribed and sworn to before me this date.

\_\_\_\_\_  
Name and Title (Police) (Date)

On information undersigned prosecutor complains and informs the Court that the above facts are true as he verily believes.

\_\_\_\_\_  
Name and Title

I promise to appear at the above named place and time.

\_\_\_\_\_  
Defendant's Signature

(Ord. No. 285, §§ 1—4, 5-3-83)

**Editor's note—** Ord. No. 285, adopted May 3, 1983, did not specifically amend this Code; hence inclusion of §§ 1—4, as § 17-2 was at the discretion of the editor.

## Chapter 17.5 - SIGNS AND ADVERTISING DEVICES<sup>[1]</sup>

*Footnotes:*

*--- (1) ---*

**Editor's note—**Ord. No. 613, § 1, adopted April 15, 1997, repealed former Ch. 17.5 of the Code in its entirety and enacted a new Ch. 17.5 to read as herein set out. Former Ch. 17.5 pertained to signs and derived from Ord. No. 283, §§ 1—10, adopted Mar. 15, 1983; Ord. No. 372, § 1, adopted Feb. 3, 1987; Ord. No. 375, §§ 1, 2, adopted April 21, 1987; Ord. No. 489, §§ 1, 2, adopted Feb. 4, 1992; and Ord. No. 560, § 1, adopted Feb. 21, 1995.

**Cross reference—** Signs advertising garage sales, etc., § 10-26; affixing of advertisements to public places, § 11-25; signs advertising sale, etc., of residential property, § 11-86; erecting signs within lines establishing public road, § 11-91.

**Note—**Saint Louis County shall not be responsible for enforcing the provisions of Chapter 17.5 "Signs and Advertising Devices" of the City of Black Jack which shall remain in full force and effect, and shall supersede the provisions of Appendix H "Signs" of the Building Code of Saint Louis County.

Sec. 17.5-1. - Purposes.

The purposes of these sign regulations are: to encourage the effective use of signs as a means of communication in the city; to maintain and enhance the aesthetic environment and the city's ability to attract sources of economic development and growth; to improve pedestrian and traffic safety; to minimize the possible adverse effect of signs on nearby public and private property; and to enable the fair and consistent enforcement of these sign restrictions. This chapter is adopted under the zoning authority of the city in furtherance of the more general purposes set forth in the zoning ordinance.

(Ord. No. 613, § 1, 4-15-97)

Sec. 17.5-2. - Applicability; effect.

A sign may be erected, placed, established, painted, created, or maintained in the city only in conformance with the standards, procedures, exemptions, and other requirements of this chapter.

The effect of this chapter is more specifically:

- (1) To establish a permit system to allow a variety of types of signs in commercial and industrial zones, and a limited variety of signs in other zones, subject to the standards and the permit procedures of this chapter;
- (2) To allow certain signs that are small, unobtrusive, and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this ordinance, but without a requirement for permits;
- (3) To provide for temporary signs without commercial messages in limited circumstances in the public right-of-way;
- (4) To prohibit all signs not expressly permitted by this chapter; and
- (5) To provide for the enforcement of the provisions of this chapter.

(Ord. No. 613, § 1, 4-15-97)

Sec. 17.5-3. - Definitions and interpretation.

Words and phrases used in this chapter shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined in the zoning ordinance of the City of Black Jack, shall be given the meanings set forth in such ordinance. Principles for computing sign area and sign height are contained in Section 17.5-13. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this chapter.

*Attraction display:* A string of pennants, a flag, a search light, a banner or inflatable used in connection with a temporary outdoor attraction announcing a grand opening, a special event or the sale of merchandise on a commercially zoned property as permitted under Section 17.5-12(7) of this chapter.

*Banner:* Any temporary sign of lightweight fabric or similar material that is mounted on a building. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

*Beacon:* Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same zoned lot as the light source; also, any light with one or more beams that rotate or move.

*Billboard:* Any sign which (i) is located on a lot not containing a building, (ii) is visible from any point of the traveled ways of an interstate highway, and (iii) is not a roof sign, post or standard sign, monument sign or a projecting sign.

*Building marker:* Any sign indicating the name of a building, street address, date and incidental information about its construction, which sign is cut into a masonry surface or made of bronze or other permanent material. A building marker shall not contain a commercial message.

*Building sign:* Any sign attached to any part of a building, as contrasted to a freestanding sign.

*Canopy:* A roof-like structure extending from a building entry that provides pedestrians protection from the weather. Not intended to be driven under.

*Canopy sign:* Any sign that is a part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor service area. A marquee is not a canopy. The building number is not to be included in the total signage for the location.

*Commercial message:* Any sign wording, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

*Commercial property:* Any property located in a "C" Commercial District, "MXD" Mixed Use Development District or any future zoning districts commercial in nature.

*Director:* The director of public works of the city or his or her designee.

*Directory sign:* A permanent on-premises business sign intended for customer convenience, direction, and safety which identifies a collection of shops or other businesses located on a single parcel of land in the C-2 shopping zone by name/address and may include tenants. A directory sign shall not be a post sign.

*Electronic changing image message sign (ECIMS):* Any surface that contains writing, video projection, illumination, pictorial representation, illustration, decoration, emblem, symbol, design, trademark, banner, flag, pennant, or any other figure or character that through the use of moving structural elements, flashing or sequential lights, lights in a dot matrix or LED configuration, which may be changed intermittently, or other automated method results in movement, the appearance of movement, or change of sign image, message, or display.

*Erect:* To build, construct, attach, hang, place, suspend or affix and shall also include the painting of wall signs.

*Facing or surface:* The surface of the sign upon, against or through which the message is displayed or illustrated on the sign.

*Flag:* Any fabric, banner or bunting containing distinctive colors, patterns or symbols used as a symbol of a government, political subdivision, or other entity.

*Freestanding sign:* Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.

*Ground sign:* Any sign not attached to a building which is supported by uprights, posts, braces or a solid base not attached to any part of a building, but not including a post sign. If the support is not a solid base, then the bottom of the sign shall be no more than twenty-four (24) inches from the ground. This is not a post sign.

*Identification sign:* A sign with only name and address of occupant.

*Incidental sign:* A sign, generally informational, that has a purpose secondary to the use of the zoned lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No sign with a commercial message legible from a position off the zoned lot on which the sign is located shall be considered incidental.

*Illuminated sign:* Any sign which has characters, letters, figures, designs or outlines illuminated by electric light or luminous tubes as part of the sign proper.

*Living sign:* A sign held by, under the control of, or attached to a human or animal, located outdoors, for the purpose of advertising or providing information about a business, commodity, service, product or other commercial activity. A person or animal dressed in a costume for the purpose of advertising or providing information about a business, commodity, service, product or other commercial activity also shall constitute a living sign, excluding temporary signage used in a parade or an amusement activity for which a permit has been issued by the city in accordance with other existing city ordinances. Living signs do not include activities or structures, displays, drawings, messages, plaques or posters involving non-commercial speech and do not include signs used during, and directly related to, lawful picketing governed by the National Labor Relations Act.

*Logo:* Any depiction which by shape, combination of colors or configuration is intended to identify a company name or product. Logos that will fit in a square having dimensions of eighteen (18) inches or less are not deemed to be a commercial message and can be placed on any sign *except window signs* without counting against the sign area restriction. Logos larger than the above are considered a commercial message in all circumstances and will count in all sign area computations.

*Lot:* Any piece or parcel of land or a portion of a subdivision, the boundaries of which have been established by some legal instrument of record, that is recognized and intended as a unit for the purpose of transfer of ownership.

*Marquee:* Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

*Marquee sign:* Any sign attached to in any manner, or made a part of, a marquee.

*Nonconforming sign:* Any sign that does not conform to the requirements of this chapter.

*Off-premises outdoor advertising sign:* A sign, including a billboard, which directs attention to a business, commodity, service, entertainment or attraction conducted, sold, offered or existing:

- (1) Elsewhere than upon the same lot where such sign is displayed; or
- (2) Not for the principal use of such lot.

*Pennant:* Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind. Flags are not considered pennants for purposes of this definition.

*Person:* Any association, company, corporation, firm, organization or partnership, singular or plural, of any kind.

*Portable sign:* Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T- frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

*Post sign:* Any sign not attached to a building or structure and supported by one (1) or more stationary poles, posts or standards. No such poles, posts or standards shall have a cross section greater than one hundred (100) square inches.

*Principal building:* The building in which is conducted the principal use of the zoned lot on which it is located. Zoned lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

*Projecting sign:* Any sign affixed to a building or wall in such a manner that its leading edge extends more than twelve (12) inches beyond the surface of such building or wall.

*Residential sign:* Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods or services legally offered on the premises where the sign is located, if offering such service at such location conforms with all requirements of the Code of Ordinances.

*Roof sign:* Any sign erected and constructed wholly or partially on and/or over the roof of a building, supported by the roof structure, and extending vertically above the highest portion of the roof.

*Sign:* Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

*Signage plan:* A narrative and graphic depiction of the proposed or existing signs on each zoned lot.

*Snipe sign:* A temporary sign or poster affixed to a utility pole, tree, fence or similar object not designed for the purpose of supporting a sign.

*Street:* A strip of land or way subject to vehicular traffic (as well as pedestrian traffic) that provides direct or indirect access to property, including, but not limited to, alleys, avenues, boulevards, courts, drives, highways, lanes, places, roads, terraces, trails, or other thoroughfares.

*Street frontage:* The distance for which a lot line of a zoned lot adjoins a public street, from one lot line intersecting said street to the furthest distant lot line intersecting the same street.

*Structural trim:* The molding, battens, cappings, nailing strips, latticing and platforms which are attached to the sign structure.

*Temporary sign:* Any sign that is used only temporarily and is not permanently mounted. Any sign displayed for a period greater than four (4) weeks is to be considered a permanent sign.

*Wall sign:* Any sign attached parallel to, but within twelve (12) inches of, a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure which is supported by such wall or building, and which displays only one sign surface.

*Window sign:* Any sign, picture, symbol, or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window. This does not apply to window signs announcing civic, community, educational, social or charitable events.

*Zoned lot:* A parcel of land in single ownership that is of sufficient size to meet minimum zoning requirements for area, coverage, and use, and that can provide such yards and other open spaces as required by the zoning regulations.

*Zoning district:* A zoning district as described in the Zoning Ordinance of the City of Black Jack.

(Ord. No. 613, § 1, 4-15-97; Ord. No. 637, §§ 1, 2, 9-15-98; Ord. No. 934, § 1, 4-15-08; Ord. No. 940, § 1, 7-15-08; Ord. No. 975, §§ 1, 2, 6-16-09; Ord. No. 998, §§ 1—3, 5-18-10)

Sec. 17.5-4. - Signs exempt from regulation under this chapter.

The following classes of signs shall be exempt from the provisions of this chapter relating to registration, payment of permit fees, structural requirements and annual inspection fees; but such exemption shall not be construed so as to relieve the owner of the sign from responsibility for its erection and maintenance in a safe manner:

- (1) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance.
- (2) Any sign inside a building, not attached to a window or door, that is not legible from a distance of more than three feet beyond the lot line of the zoned lot or parcel on which such sign is located.
- (3) Works of art that do not include a commercial message.
- (4) Holiday lights and decorations with no commercial message.
- (5) Traffic control signs on private property, such as stop, yield and similar signs, the face of which meet department of transportation standards and which contain no commercial message of any sort.
- (6) Building marker signage.
- (7) Street address signs.
- (8) Signs of political parties, issues and candidates seeking public office, provided such signs do not exceed six (6) square feet when placed on property located within an "R" residential zoning district and provided further that such signs do not exceed sixteen (16) square feet when placed on property located within any zoning district other than an "R" residential zoning district.

(Ord. No. 613, § 1, 4-15-97; Ord. No. 1038, §§ 2, 3, 8-7-12)

Sec. 17.5-5. - Signs allowed on private property with and without permits.

Signs shall be allowed on private property in the city in accordance with the provisions of this chapter.

- (1) Every property shall have the street address prominently displayed, in a size which permits reading from the street, and the height of which shall be a minimum of four (4) inches. These numbers shall contrast with their background and shall be in Arabic numerals or alphabet letters. No permit is necessary for this type of signage.
- (2) Permitted signage subject to the size and location limitations detailed in this chapter:
  - a. *Residential district signage.*
    1. Signs not exceeding two (2) feet by three (3) feet in linear dimensions of height and width which indicate property is for sale or is available for lease or rent. No sign permit is required.
    2. Home occupation signage. Sign permit is required.
    3. Residential subdivision or development monument signs which identify the development by common descriptive name (i.e., "Black Jack Square," et al). Sign permit is required.
    4. Traffic control signage. No sign permit is required.
    5. Temporary signage as described in Section 17.5-10. Sign permit is required.
    6. Governmental and/or civic affair signage. No sign permit is required.
    7. Signage for eleemosynary institutions, including churches and other places of worship. Sign permit is required.
    8. Display of a flag as defined in this chapter. No sign permit is required if display is on a flag pole which is mounted to the side of a building. Sign permit is required if display is on a freestanding flag pole.
  - b. *Signage for all other zoning districts or uses.*
    1. Signs up to eight (8) square feet in area which indicate property is for sale or space is available for lease or rent. No sign permit is required.
    2. Development ground signs which identify the development by common descriptive name (e.g., "Black Jack Square"). Sign permit is required.
    3. Traffic control signage. No sign permit is required.
    4. Temporary signage as described in Section 17.5-10. Sign permit is required.
    5. Governmental and/or civic affair signage. No sign permit is required.
    6. Signage for eleemosynary institutions, including churches and other places of worship. Sign permit is required.
    7. One (1) wall sign per commercial property. Sign permit is required.
    8. One (1) ground sign per commercial property. Under certain circumstances described in Section 17.5-12(5)a, a projecting sign may be substituted for the ground sign. Sign permit is required.
    9. Window signage subject to the limitations of Section 17.5-12(4). No sign permit is required.
    10. Incidental signage. Sign permit is required.
    11. Clocks displaying no commercial message. Sign permit is required.
    - 12.

Display of a flag as defined in this chapter. No sign permit is required if display is on a flag pole which is mounted to the side of a building. Sign permit is required if display is on a freestanding flag pole.

13. Directory sign. Sign permit is required.

(Ord. No. 613, § 1, 4-15-97; Ord. No. 831, § 1, 9-7-04; Ord. No. 856, § 1, 4-5-05; Ord. No. 940, § 2, 7-15-08; Ord. No. 975, §§ 3, 4, 6-16-09; Ord. No. 1038, § 1, 8-7-12)

Sec. 17.5-6. - Signs in the public right-of-way.

- (a) No permanent or temporary signs shall be allowed in a municipally controlled public right-of-way except for the following:
- (1) Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.
  - (2) Bus stop signs erected by a public transit company.
  - (3) Informational signs of a public utility regarding its poles, lines, pipes or facilities.
  - (4) Garage sale signs as defined by and in accordance with other existing city ordinances.
  - (5) Emergency warning signs erected by a governmental agency, a public utility company, or a contractor doing authorized or permitted work within the public right-of-way.
- (b) Other signs in the public right-of-way forfeited. Any sign installed or placed on public property, except in conformance with the requirements of this section, shall be forfeited to the city and subject to confiscation. In addition to other remedies hereunder, the city shall have the right to recover from the owner or person placing such a sign the full costs of removal and disposal of such sign.

(Ord. No. 613, § 1, 4-15-97)

Sec. 17.5-7. - Signs prohibited under this chapter.

All signs not expressly permitted under this chapter or exempt from regulation hereunder in accordance with the provisions of this chapter are prohibited in the city. Such signs include, except to the extent permitted pursuant to section 17.5-12(7) of this chapter, but are not limited to:

- (1) Beacons;
- (2) Pennants;
- (3) Freestanding residential signs;
- (4) Roof signs;
- (5) Portable signs;
- (6) Post signs;
- (7) Projecting signs, except to the extent permitted pursuant to section 17.5-12(5);
- (8) Banner signs;
- (9) Strings of lights not permanently mounted to a rigid background, except those exempt under Section 17.5-4;
- (10) Inflatable signs and tethered balloons;
- (11) Billboards;
- (12) Snipe signs;
- (13) Off-premises outdoor advertising signs; and
- (14)

Living signs, except to the extent being displayed inside a building or otherwise permitted by this chapter.

(Ord. No. 613, § 1, 4-15-97; Ord. No. 637, §§ 3, 4, 9-15-98; Ord. No. 998, §§ 4, 5, 5-18-10)

Sec. 17.5-8. - Existing signs not conforming with this chapter.

Except as otherwise provided herein, the owner of any zoned lot or other premises on which exists a sign that does not conform with the requirements of this chapter or for which there is not a current and valid sign permit shall be obligated to either remove such sign or to bring it into conformity with the provisions of this chapter.

- (1) Nonconforming existing signs, permits and terms: A sign that would be permitted under this chapter only with a sign permit, but which was in existence on the date of enactment of this chapter, and which was constructed in accordance with the ordinances and other applicable laws in effect on the date of its construction, but which by reason of its size, height, location, design or construction is not in conformance with the requirements of this ordinance, shall be automatically designated as a nonconforming sign.
- (2) Such designation as a nonconforming sign shall allow the sign, which was made nonconforming by the adoption of this chapter, to remain in place and be maintained indefinitely, provided that no action is taken which increases the degree or extent of the nonconformity. A change in the information on the face of an existing nonconforming sign is allowed. However, any nonconforming sign shall either be eliminated or made to conform with the requirements of this chapter when any proposed change, repair or maintenance would constitute an expense of more than fifty (50) percent of the lesser of the original value or replacement value of the sign.

(Ord. No. 637, §§ 5, 6, 9-15-98)

Sec. 17.5-9. - Permits required.

If a sign requiring a permit under the provisions of this ordinance is to be placed, constructed, erected, or modified on a zoned lot, the business owner, or its authorized agent, shall secure a sign permit prior to the construction, placement, erection or modification of such a sign in accordance with the requirements of Section 17.5-11. Furthermore, the property owner shall maintain in force, at all times, a sign permit for such sign. No signs shall be erected in the public right-of-way except in accordance with Section 17.5-6. No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is consistent with the requirements of this chapter (including those protecting existing signs).

(Ord. No. 613, § 1, 4-15-97)

Sec. 17.5-10. - Temporary sign permits.

Temporary signs shall be allowed only upon the issuance of a temporary sign permit, which shall be subject to the following requirements:

- (1) Term. A temporary sign permit shall allow the use of a temporary sign for a specified 30-day period.
- (2) Number. Only one (1) temporary sign permit shall be issued to the same business license holder on the same zoned lot in any calendar year, except for governmental, civic or eleemosynary signage which is limited to one (1) sign per month for a maximum of ten (10) days in each period.
- (3)

Application for approval of a temporary sign permit shall be made on the forms on file in the office of the city clerk and is approved or rejected by the director of public works. The applicant may appeal a decision of the director of public works to the board of adjustment.

(Ord. No. 613, § 1, 4-15-97)

Sec. 17.5-11. - Sign permit procedures.

The following procedures shall govern the application for, and issuance of, all sign permits under this ordinance, including temporary sign permits, and the submission and review of signage plans.

- (1) *Applications.* All applications for sign permits of any kind shall be submitted to the Director on an application form and shall include all information stated in this chapter.
- (2) *Application fee.* A nonrefundable application fee of twenty-five dollars (\$25.00) shall be paid to the city upon application for any sign permit.
- (3) *Permit for new sign or for sign modification.* An application for construction, creation, or installation of a new sign or for modification of an existing sign shall contain such information as the director shall require including, without limitation, the following:
  - a. The applicant's name, address and phone number;
  - b. All permits (duly issued by the appropriate governmental authority) which are necessary or required in connection with the erection of such sign including, without limitation, a building permit, any electrical permit and/or any permit required by the Missouri State Highway and Transportation Commission pursuant to § 226.500 to § 226.600 of Missouri Revised Statutes, 1986, as amended (the "State Sign Law"). With respect to any applicant who maintains that a permit is not required by the State Sign Law, a written certification to the city, in form and substance satisfactory to the city and its counsel, of the reasons why such permit is not required by the State Sign Law;
  - c. The location of the building, structure or lot to which or upon which the sign is to be attached or erected;
  - d. Documentation in form and substance satisfactory to the director demonstrating the applicant's right to occupy the property on which the sign is to be located;
  - e. A site plan of the property showing the sign location in relation to all buildings, roads and streets;
  - f. A copy of the plans and specifications of the sign including the method of construction and attachment and an elevation showing the dimensions and height of the sign from ground level;
  - g. A copy of the street sheets and calculations showing the sign is designed for dead load and wind pressure in any direction in the amount required by this chapter and all other laws and ordinances of the city; and
  - h. Such other information as the director or his or her designee may request from time to time to ensure full compliance with this chapter and all other laws and ordinances of the city.
- (4) *Inspection.* The applicant shall call for a final inspection after the installation of the sign is complete, and in the case of signs involving electrical connections, after the electric inspections have been made and passed. If the sign has been installed in accordance with the permit provisions, the sign shall be approved. In the event the sign was not installed in accordance with the permit provisions, the inspector shall notify the applicant of the deficiencies. The sign is not

considered an approved sign until all deficiencies have been corrected. If, after six (6) months, the sign construction has not been approved, the permit shall lapse and become void and the city may take appropriate steps as indicated in Section 17.5-15.

- (5) *Assignment of sign permits.* A current and valid sign permit shall be freely assignable to a successor as owner of the same type of business or holder of a business license for the same premises. However, nonconforming signs still must be brought into compliance or removed by December 31, 1998.

(Ord. No. 613, § 1, 4-15-97)

Sec. 17.5-12. - Sign standards, design, construction, and maintenance.

All signs shall be designed, constructed and maintained in accordance with the following standards:

(1) *General requirements:*

- a. All signs shall comply with applicable provisions of the current city adopted building and electrical code.
- b. Except for flags, temporary signs and window signs conforming in all respects with the requirements of this chapter, all signs shall be constructed of permanent materials and shall be permanently attached to the building by direct attachment to a rigid wall, frame or structure, or to the ground, as the case may be, in a manner acceptable to the director of public works.
- c. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Code, at all times.
- d. Building marker or property identification signs such as cornerstones are permitted and do not count against the total area of signage provided such signs are less than four (4) square feet in area; have the wording etched in stone or cast in metal or other permanent material; and are permanently installed in the buildings.
- e. Logos that will fit in a square having dimensions of eighteen (18) inches or less are not deemed to be a commercial message and can be placed on any sign *other than window signs* without being included in the sign area computations. Logos that will not fit in a square measuring eighteen (18) inches on each side are considered a commercial message and will count in all sign area computations.

(2) *Wall sign regulations:*

- a. Single occupant building on a single zoned lot:
  1. One (1) wall sign per face of building facing a street or side street contiguous with the subject property or which faces a driveway or parking lot located between the street and the building.
  2. Sign area as determined by Section 17.5-13(1) is restricted to one-fourth ( $\frac{1}{4}$ ) square feet of sign area per lineal foot of street frontage, provided that no sign shall be required to be less than twenty (20) square feet.
  3. Maximum wall sign area is eighty (80) square feet.
  4. Not more than two (2) incidental signs, limited to a maximum of four (4) square feet for each sign, is allowed per building face.
- b. Single story building with multiple tenants on a single zoned lot:

The total of all wall signage on a building may not exceed thirty (30) percent of the wall area facing the street.

2. One (1) building identity sign having an area of eighty (80) square feet or less for each commercial property.
  3. Each tenant having a grade level public entry from the street, or side street contiguous with the subject property, or which faces a driveway or parking lot located between the street and the building, is entitled to one (1) wall sign.
  4. Wall sign area as computed by Section 17.5-13(1) is restricted to one fourth ( $\frac{1}{4}$ ) square feet of sign face per lineal foot of tenant frontage on a street, provided that no sign shall be required to be smaller than twenty (20) square feet.
  5. Maximum sign area per tenant is restricted to eighty (80) square feet.
  6. Not more than two (2) incidental signs, limited to a maximum of four (4) square feet for each face of each sign, is allowed per building face.
- c. Multifloor building with multiple tenants on a single zoned lot:
1. The total of all wall signage on a building may not exceed thirty (30) percent of the wall area facing the street.
  2. One (1) building identity sign having an area of eighty (80) square feet or less for each commercial property.
  3. Each grade level tenant having a public entry from the street, or from a side street contiguous with the subject property, or which faces a driveway or parking lot located between the street and the building, is entitled to one (1) wall sign.
  4. Wall sign area as computed by Section 17.5-13(1) is restricted to one fourth ( $\frac{1}{4}$ ) square feet of sign face per lineal foot of tenant frontage on a street, provided that no sign shall be required to be smaller than twenty (20) square feet.
  5. Maximum sign area per tenant is restricted to eighty (80) square feet.
  6. Not more than two (2) incidental signs, limited to a maximum of four (4) square feet for each face of each sign, is allowed per commercial property

(3) *Ground sign regulations:*

- a. Each property accommodating a commercial entity is entitled to one (1) ground sign per street frontage. For purposes of this section, a commercial entity is a single building housing one or more businesses.
- b. Not more than one (1) face of the sign may be visible by the public from any point (except from points on or around the prolongation of the axis of a "V" shaped sign) on the street.
- c. The ground sign must display the street number in addition to the sign language. The street number does not count against the area limit of the sign, but the area allocated to the street number may not be larger than four (4) square feet.
- d. If there is not enough physical room between the building and the street to accommodate a ground sign, a building projecting sign may be authorized in accordance with the provisions of Section 17.5-12(5).
- e. Incidental signage intended to direct traffic flow or give other needed information is permitted provided there is no commercial message on the sign. A logo that will fit within a square measuring eighteen (18) inches on each side is allowed on the sign and will not be

included in the sign area computations for the incidental sign. Incidental signs are not considered ground signs and do not count against the ground sign area restrictions.

f. Reserved.

g. *Sign regulations:*

1. No part of the sign may be located within five (5) feet of the public right-of-way or be positioned in any manner that will interfere with the line of sight of pedestrians or vehicles attempting to enter or exit from the property.
2. Sign area is restricted to one-fourth ( $\frac{1}{4}$ ) square feet per lineal foot of street frontage, but will not be required to be smaller than twenty (20) square feet nor may any sign be larger than eighty (80) square feet.
3. Maximum height of sign is twenty (20) feet above grade level.

(4) *Window signage:*

- a. Window signage is permitted in an amount less than or equal to twenty-five (25) percent of the window area of any business engaged in retail sales who is located on the grade level of a building.
- b. The area for window signage is in addition to any other permitted signage.
- c. Any logo used in window signage is considered a commercial message and is to be included in the sign area computations.

(5) *Projecting signs:*

- a. Projecting signs are permitted only in those cases where a business is entitled to a ground sign but is prevented from installing one due to physical conditions. A permit application for a projecting sign that is rejected by the director may be appealed to the board of adjustment.
- b. Sign regulations:
  1. Maximum size is twenty four (24) square feet per sign face and is not dependent upon building frontage or lot frontage.
  2. No more than two (2) faces per sign. Faces must be within eighteen (18) inches of each other.
  3. In all cases, at least ten (10) feet of clearance for pedestrian or vehicular traffic must be provided.
  4. No part of the sign may be closer than five (5) feet to the right-of-way.

(6) *Canopies and canopy signs:*

- a. For businesses directly fronting on a public pedestrian sidewalk, canopies may be installed for purposes of shielding pedestrians from the weather or to afford protection for merchandise in store windows that may be harmed by direct sunlight.
- b. Canopies may bear lettering denoting the street address and business name by letters up to a maximum of twelve (12) inches in height and the width of the surfaces of the canopy to a maximum width of twelve (12) feet.

(7) *Temporary outdoor attractions:* Attraction displays used in connection with a temporary outdoor attraction announcing a grand opening, a special event or the sale of merchandise shall be permitted and maintained subject to the following regulations:

a.

A temporary outdoor attraction permit shall be obtained from the department of public works prior to the erection of any attraction display. Applications for such permits shall provide a detailed site plan showing the location of the proposed attraction displays, their shape and size.

- b. A maximum of five (5) attraction displays may be permitted on one (1) zoned lot at any given time.
- c. Temporary outdoor attraction permits shall be limited to a maximum of forty-five (45) days during any six-month period. The time limitations set forth herein may be extended at the discretion of the city council.
- d. Placement of displays shall not interfere with the safety of patrons, pedestrians or motorists.
- e. Cold air or helium inflatables shall be roof or ground mounted, designed and tethered properly to resist movement and no higher than thirty (30) feet above grade.
- f. Banners in excess of fifteen (15) square feet shall be wall mounted.

(8) *Electronic changing image message sign (ECIMS)*. All electronic changing image message signs must be freestanding, ground-mounted signs that conform with all requirements relative to the ground sign regulations of this section, and the following standards and limitations:

- a. All electronic changing image message signs shall comply with the following standards and all other applicable requirements under Chapter 17.5 of the Code of Ordinances of the City of Black Jack or other applicable law:
  - 1. ECIMS are not permitted in residential zones.
  - 2. ECIMS must be installed more than two hundred (200) feet from a residential property line.
  - 3. No ECIMS may exceed a height of twenty (20) feet above grade level.
  - 4. The mounting structure and display area must conform to the architecture of surrounding properties.
  - 5. The ECIMS display area may consist only of alphabetic or numeric characters on a plain background. Graphic images may be displayed in the size and identical color of the alphabetic or numeric characters of the message or display.
  - 6. The ECIMS must not have any distracting appearance of motion, flashing, blinking, or shimmering. The display changes may not move forward or away from the viewer, expand or contract, bounce, rotate, spin, twist, or otherwise portray graphics or animation as it moves onto, is displayed on, or leaves the sign face.
  - 7. A single line display alternating between a display of time and temperature may change no more frequently than once every five (5) seconds.
  - 8. The ECIMS must operate so that the message or display, other than time and temperature, changes no more frequently than once every ten (10) seconds.
- b. The sign must be constructed, operated, and function so as not to exceed the following illumination limitations:
  - 1. For a sign comprised of red only, the intensity level (NIT) may be no more than three thousand one hundred thirty (3,130) in the daytime and one thousand one hundred twenty-four (1,124) in the nighttime;
  - 2.

For a sign comprised of green only, the intensity level (NIT) may be no more than six thousand three hundred (6,300) in the daytime and two thousand two hundred fifty (2,250) in the nighttime;

3. For a sign comprised of amber only, the intensity level (NIT) may be no more than four thousand six hundred ninety (4,690) in the daytime and one thousand six hundred seventy-five (1,675) in the nighttime; and
4. For signs with full color, the intensity level (NIT) may be no more than seven thousand (7,000) in the daytime and two thousand five hundred (2,500) in the nighttime.
- c. The sign owner shall submit to the director of public works a written certification from the sign manufacturer, stating that the light intensity of the sign has been factory pre-set not to exceed the levels as specified in this section, and the intensity level is protected from end-user manipulation by password-protected software or other method as deemed appropriate by the director of public works.
- d. No other flashing lights, or attraction devices are permitted on a sign containing an ECIMS.

(9) *Directory signs.*

- a. Only a collection of shops or other businesses located on a single parcel of land are allowed to display a directory sign.
- b. A collection of shops or other businesses containing less than twenty-five thousand (25,000) and more than five thousand (5,000) square feet of gross floor area may have a directory sign containing a maximum of two hundred (200) square feet. A maximum fifty (50) percent (one hundred (100) square feet) of such sign may contain the name of the commercial center or office building.
- c. A directory sign may be erected on one (1) or more supports, provided such sign:
  1. Has a maximum height of twenty (20) feet above the mean ground level below the sign.
  2. Has a minimum height of ten (10) feet above the mean ground level below the sign.
  3. Does not extend beyond any property line.
  4. Is not within ten (10) feet of any side property line.
  5. Is constructed in the frontage as defined in the zoning ordinance.
  6. Is built of noncombustible materials.
  7. Is illuminated only internally.
- d. No collection of shops or other businesses located on a single parcel of land in the C-2 Shopping Zone shall have any ground sign other than a directory sign.
- e. Commercial centers and office buildings containing less than five thousand (5,000) square feet of gross floor area may have directory signs as provided for in Section 17.5-12(9)b. above, but they must comply with the ground sign area requirements of Section 17.5-12(3).

- (10) *Religious/eleemosynary institution signage.* A church, place of worship or other eleemosynary institution shall be permitted one (1) ground sign and one (1) wall sign on the same premises. A church, place of worship or other eleemosynary institution which has frontage on two (2) or more roadway streets shall be permitted one (1) ground sign and one (1) wall sign on the same premises fronting on not more than two (2) such roadways on which it has frontage. In a "NU" Non-Urban or any "R" Residence District, no part of any ground sign shall extend more than eight (8) feet above grade and the portion of any ground sign or wall sign consisting of a board or surface for information shall not exceed fifty (50) square feet in area, exclusive of one (1) religious symbol without lettering.

which may have an additional outline area not exceeding fifty (50) square feet; cross height not to exceed fifteen (15) feet. However, a church or place of worship that contains a school, child care center or adult day care center as an accessory use located in a "NU" Non-Urban District or any "R" Residence District shall be permitted one (1) ground sign and one (1) wall sign not to exceed seventy-five (75) square feet in outline area per facing on not more than two (2) roadways on which it has frontage.

(Ord. No. 613, § 1, 4-15-97; Ord. No. 632, § 1, 3-3-98; Ord. No. 637, §§ 7—9, 9-15-98; Ord. No. 934, § 2, 4-15-08; Ord. No. 940, §§ 3, 4, 7-15-08; Ord. No. 972, §§ 1—3, 3-17-09; Ord. No. 975, 5, 6-16-09)

#### Sec. 17.5-13. - Computations.

The following principles shall control the computation of sign area and sign height.

- (1) *Computation of area of individual signs.* The area of a sign face (which is also the sign area of a wall sign or other sign with only one face) shall be computed by means of the smallest square, circle, rectangle, triangle, or combination thereof, that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework, bracing or decorative fence or wall when such fence or wall otherwise meets Zoning Ordinance regulations and is clearly incidental to the display itself.

Square foot area is computed by multiplying the length of the sign by the height, both at their greatest measurement comprising each word or symbol. Grid calculation of exact square foot area is acceptable with engineer's sealed calculations and drawing.

Logos that will fit in a square having dimensions of eighteen (18) inches or less are not deemed to be a commercial message and can be placed on any sign without counting against the sign area restriction. Logos larger than the above are considered a commercial message in all circumstances and will count in all sign area computations.

- (2) *Computation of area of multifaced signs.* The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back, so that both faces cannot be viewed from any point at the same time, and when such sign faces are part of the same sign structure and are not more than eighteen (18) inches apart, the sign area shall be computed by the measurement of one of the faces.

Logos that will fit in a square having dimensions of eighteen (18) inches or less are not deemed to be a commercial message and can be placed on any sign without counting against the sign area restriction. Logos larger than the above are considered a commercial message in all circumstances and will count in all sign area computations.

- (3) *Computation of height.* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be construed to be the lower of (1) existing grade prior to construction or (2) the newly established grade after construction, exclusive of any filling, berming, mounding or excavating solely for the purpose of locating the sign. In cases in which the normal grade cannot reasonably be determined, sign height shall be computed on the assumption that the elevation of the normal

grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the zoned lot, whichever is lower.

#### Sec. 17.5-14. - Violations.

Any of the following shall be a violation of this chapter and shall be subject to the enforcement remedies and penalties provided by this chapter, the Zoning Ordinance, and state law:

- (1) To install, create, erect or maintain any sign in a way that is inconsistent with any plan or permit governing such sign or the zoned lot on which sign is located.
- (2) To install, create, erect or maintain any sign requiring a permit without such a permit.
- (3) To fail to remove any sign that is installed, created, erected or maintained in violation of this chapter, or for which the sign permit has lapsed, or for which the sign permit has been withdrawn or which has not been approved by the director.
- (4) To continue any such violation. Each such day of a continued violation shall be considered a separate violation when applying the penalty portions of this chapter.
- (5) Each sign installed, created, erected or maintained in violation of this chapter shall be considered a separate violation when applying the penalty portions of this chapter.

(Ord. No. 613, § 1, 4-15-97)

#### Sec. 17.5-15. - Enforcement and remedies.

- (a) Any person violating any provisions of this chapter or any employee, assistant, agent or any other person participating or taking part, joining or aiding in a violation of any provision of this ordinance may be prosecuted as provided by law for the violation of ordinances of the City of Black Jack and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) for any one offense. Each day a violation continues after service of written notice to state such violation shall constitute a separate offense.
- (b) In addition to the penalties hereinabove authorized and established, the city attorney shall take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of this chapter.

(Ord. No. 613, § 1, 4-15-97; Ord. No. 896, § 1, 12-5-06)

#### Sec. 17.5-16. - Appeals.

An appeal from a decision of the director of public works under this chapter shall be taken by using the same procedure for an appeal as contained in Sections 6-116 through 6-122 of the Code of Ordinances of the City of Black Jack.

(Ord. No. 613, § 1, 4-15-97)

### Chapter 18 - SOLID WASTE<sup>[1]</sup>

*Footnotes:*

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**Editor's note**—Nonamendatory Ord. No. 568, § 1, adopted June 6, 1995, repealed former Ch. 18, Art. I, §§ 18-1—18-9, Art. II, §§ 18-26—18-30, in its entirety and enacted new provisions as herein set out. Former Ch. 18 pertained to similar subject matter and derived from Ord. No. 167, §§ 1—6, 5-5-77; Ord. No. 460, §§ 1, 2, 2-19-91; Ord. No. 548, § 1, 10-4-94.

**Cross reference**—Definitions and rules of construction generally, § 1-2; vehicles spilling load, etc., § 11-89; litter in parks, § 14-45

## ARTICLE I. - IN GENERAL

### Sec. 18-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Approved incinerator:* An incinerator which complies with all current regulations of the Missouri Air Conservation Commission and St. Louis County Regulations.

*Bulky waste:* Non-putrescible solid waste consisting of combustible and/or non-combustible waste materials from dwelling units, commercial, industrial, institutional or agricultural establishments which are either too large or too heavy to be safely and conveniently loaded in solid waste collection vehicles by solid waste collectors with the equipment available therefor.

*City:* City of Black Jack, Missouri.

*Collection:* Removal and transportation of solid waste from its place of storage to its place of processing or disposal.

*Container:*

- (1) For individual residential collection, solid waste containers shall be leakproof, waterproof and fitted with a fly-tight lid. Containers shall be of a type originally manufactured for residential solid waste; of lightweight and sturdy construction; with tapered sides for easy emptying; have handles, bails or other suitable lifting devices or features, and have a nominal capacity of thirty-five (35) gallons or less. The total weight of any individual container and contents shall not exceed fifty (50) pounds. Galvanized metal, rubber or fiberglass containers may be used. Plastic containers which do not become brittle in cold weather may also be used. Disposable or "one-way" containers of paper or plastic construction, specifically designed for the purpose of garbage disposal, may be used if securely closed to prevent spillage.
- (2) In addition to the foregoing, a container may have a capacity in excess of thirty-five (35) gallons, but shall not exceed an eighty-five (85) gallon capacity and further, shall not exceed two hundred (200) pounds in weight when loaded, if the said container is mobile by the use of wheels attached thereto, is provided by the authorized solid waste collectors, and is adaptable to be unloaded mechanically by the refuse and trash collection trucks.
- (3) For multiple housing facilities and institutional, commercial, business, industrial or agricultural establishments, solid waste containers shall be waterproof, leakproof and have suitable covers. Individual container size, construction, location and screening shall be approved by the director.

*County:* St. Louis County, Missouri.

*Curb:* A location adjacent to and not more than seven (7) feet from any street.

*Demolition and construction waste:* Residue from the demolition or construction of residential, industrial or commercial structures.

*Director:* The director of the solid waste management program for the city is to be the director of public works for the city or his/her designee.

*Dwelling unit:* Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used, or are intended to be used, for living, sleeping, cooking and eating.

*Garbage:* Putrescible animal or vegetable wastes resulting from the handling, preparation, cooking, serving or consumption of food.

*Hazardous wastes:* Including, but not limited to, pathological wastes, infectious wastes, explosive wastes, pesticides, pesticide containers, toxic or radioactive materials.

*Landfill:* A waste disposal site in which waste is deposited.

*Mayor:* The mayor of the city or his/her designee.

*Multiple housing facility:* A housing facility containing more than one (1) dwelling unit under one (1) roof.

*Occupant:* Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or of any other improved real property, either as owner or as tenant.

*Person:* Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, political subdivision or organization of any kind or their legal representative, agent or assigns.

*Premises:* All single-family dwellings, multiple housing facilities and institutional, commercial, business, industrial or agricultural establishments located in the city.

*Processing:* Incinerating, composting, baling, shredding, salvaging, compacting and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.

*Recyclables.* Newsprint; brown, clear and green glass containers; steel or tin cans; aluminum cans; plastic milk jugs and plastic soda bottles; all rinsed and reasonably free of food, dirt and other contaminants. Also included as a recyclable is any other material that the city and the contractor may hereafter mutually agree to collect as a recyclable. For the purpose of this chapter, recyclables shall not include other solid waste, bulk rubbish or hazardous wastes as defined in this chapter.

*Recyclables container:* A container furnished by the refuse collector or contractor for storage of recyclables.

*Recycling:* The process of remanufacturing recyclables into other products or refurbishing them for reuse.

*Refuse:* Solid waste.

*Service charge:* The user fee established by the city for the collection of solid waste from single dwelling units and multiple housing facilities.

*Solid waste:* Unwanted or discarded waste materials in a solid or semi-solid state, including, but not limited to, garbage, ashes, street refuse, dead animals, animal and agricultural wastes, yard wastes, discarded appliances, special wastes, industrial wastes, and demolition and construction wastes.

*Solid waste container:* Receptacle used by any person to store solid waste during the interval between solid waste collections.

*Solid waste disposal:* The process of discarding or getting rid of unwanted material. In particular, the final disposition of solid waste.

*Solid waste management:* The entire solid waste system of storage, collection, transportation, processing and disposal.

*State:* State of Missouri.

*Storage:* Keeping, maintaining or storing solid waste from the time of its production until the time of its collection.

*Tree waste.* Tree limbs no longer than forty-eight (48) inches and no greater than four (4) inches in diameter.

*White goods:* Washers and dryers, water heaters, trash compactors, dishwashers, microwave ovens, conventional ovens, ranges, stoves, wood stoves, air conditioners, refrigerators, freezers, dehumidifiers and other appliances.

*Yard waste.* Grass clippings, vines, leaves, and hedge and shrub (including rose bushes) trimmings.

(Ord. No. 568, § 1, 6-6-95)

Sec. 18-2. - Solid waste storage.

- (a) The occupant of every dwelling unit and every multiple housing facility and institutional, commercial, business, industrial or agricultural establishment producing solid waste within the corporate limits of the city shall provide proper solid waste containers, as defined in this chapter, for the storage of all solid waste, except bulky waste and demolition and construction waste, to serve each such dwelling unit, facility or establishment and shall place all solid waste to be collected in such solid waste containers. The solid waste containers and the area surrounding them shall be maintained in good repair and in a clean, neat and sanitary condition at all times. The solid waste containers shall be covered at all times except when depositing waste therein or removing the contents therein. The weight of any individual container and contents shall not exceed the amount as provided for in the definition for a container. Such solid waste shall not be placed on property owned, rented or occupied by another except when placed at the curb for collection.
- (b) Tree waste and brush shall be securely tied in bundles not larger than forty-eight (48) inches long and eighteen (18) inches in diameter when not placed in storage containers. The weight of any individual bundle shall not exceed fifty (50) pounds.
- (c) Yard waste not capable of being bundled as per this section shall be stored in containers so constructed and maintained as to prevent the dispersal of wastes placed therein upon the premises served, upon adjacent premises or upon adjacent public rights-of-way, except when such material is composted.

- (d) The use of unapproved solid waste containers may subject the resident to not having their solid wastes collected.

(Ord. No. 568, § I, 6-6-95)

Sec. 18-3. - Collection of solid waste.

- (a) The city shall provide for the collection of all solid waste generated by the occupants of every dwelling unit and every multiple housing facility in the city by contracting with a person, county or other city, or a combination thereof, as determined to be in the best interests of the city. The occupants of every dwelling unit and every multiple housing facility in the city shall utilize the collection service selected by the city.
- (b) All solid waste from premises to which collection services are provided shall be collected, except bulky waste, as defined herein. All solid waste collected shall, upon being loaded into collection equipment, become the property of the collection agency.
- (c) Tree and yard waste shall be placed at the curb for collection. Thorn bushes and vines shall be bundled separately from other types of yard waste. Solid waste containers as required by this Code for the storage of residential solid waste shall also be placed at the curb for collection. Solid waste containers for multiple housing facilities and institutional, commercial, business, industrial or agricultural establishments shall remain in the regular waste storage site for that facility or establishment for collection, provided the waste storage site is on the exterior of the facility or establishment. The solid waste containers for such facilities or establishments may be placed at such other location for collection which is mutually agreeable to the occupant and the solid waste collection agency.
- (d) A solid waste collection agency operating under contract with the city is hereby authorized to enter upon private property for the purpose of collecting solid waste therefrom as required by this Code. Solid waste collectors shall not enter dwelling units or other residential buildings for the purpose of collecting residential solid waste. Commercial solid waste may be removed from within commercial establishments upon written request of the owner and approval by the director.
- (e) The following collection frequencies shall apply to collection of solid waste within the city:
  - (1) All solid waste, other than bulky waste, shall be collected at least one (1) time per week. At least forty-eight (48) hours shall intervene between regularly scheduled collections. In the event a holiday falls on the regularly scheduled day of collection, the collection shall be made on the next scheduled working day following the holiday.
  - (2) In the event that certain waste is too large to fit into the container; but can be handled easily by one man, is not detrimental to health or sight and is not subject to foul or offensive odors; such rubbish when bundled neatly and securely may be placed at the curb for collection; provided, however, that in no event shall garbage or other loose household waste be permitted unless placed in proper solid waste containers as defined in this chapter. Bulky waste larger or heavier than that described above must be stored by the occupant until bulky waste collection time as per this chapter.
  - (3) All garbage and rubbish shall be deposited in containers, as defined herein, before collection, except such other items, exclusive of garbage, as described as tree waste, yard waste or bulky waste which may be placed by householder at the curb for collection. An occupant shall not place or allow any waste container in front of the front building line prior to 6:00 p.m. on the day preceding the collection of same and shall not leave such container in front of the front building line after 9:00 p.m. on the day of collection.

- (4) It shall be unlawful for any person or persons not duly authorized as provided herein to tamper with, overturn, remove or destroy any garbage or rubbish container mentioned herein.
- (5) Failure to have and maintain containers as required herein shall be considered prima facie evidence of violation of this chapter.
- (f) Solid waste containers shall be stored upon the property owned or occupied by the generator of the solid waste. Commercial solid waste containers may be stored upon public property if the owner or occupant has been granted written permission from the city to use public property for such purposes. The storage site on commercial property shall be well drained and fully accessible to collection equipment, public health personnel and fire inspection personnel.
- (g) All collection vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for collection of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting solid waste, or, as an alternate, the entire bodies thereof shall be enclosed with only loading hoppers exposed. No solid waste shall be transported in the loading hoppers.
- (h) Permits shall not be required for the removal, hauling or disposal of earth and rock material from grading or excavation activities. However, all such material shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained that none of the material being transported shall spill upon the public rights-of-way.
- (i) Transportation and disposal of demolition and construction wastes shall be in accordance with the sections concerning disposal of solid waste and/or hazardous waste.

(Ord. No. 568, § 1, 6-6-95; Ord. No. 606, § 1, 2-18-97)

Sec. 18-4. - Disposal of solid waste and/or hazardous waste.

- (a) Solid wastes shall be disposed of at a licensed landfill, licensed waste processing facility, or a licensed transfer station which shall comply with all federal, state and county laws and regulations.
- (b) The director may classify certain wastes as hazardous or infectious wastes which shall require special handling and shall be disposed of only in a manner acceptable to the director and which shall comply with all federal, state, county and local laws and regulations.

(Ord. No. 568, § 1, 6-6-95)

Sec. 18-5. - Recycling solid waste.

- (a) The purpose of this section is to provide for the separation of recyclable items to aid and promote collection thereof and the disposal of same by means other than deposit in a sanitary landfill by incineration.
- (b) Every resident shall separate compostables from all other refuse.
- (c) Collection of recyclables.
  - (1) Collection of recyclables from premises shall be by a contractor licensed by the city, or a solid waste hauler, which hauler shall be duly licensed by the city. Such collection shall be done in compliance with all other applicable ordinances of the city, now or hereafter in effect. The recyclables shall be collected from the premises covered by such contract or by any duly licensed waste hauler. The city shall provide for the collection of all recyclables generated by the occupants of every single-family dwelling unit in the city by contracting with a person, county or

other city, or a combination thereof, as determined to be in the best interests of the city. The occupants of every single-family dwelling unit in the city shall utilize the recyclables collection service selected by the city.

- (2) The collection of recyclables at the curb by a private hauler not licensed by the city is expressly prohibited.
  - (3) Any contract or license holder shall collect all recyclables at least once a week on the same day in accordance with schedules or routes for collection, as determined by the director.
  - (4) Neither the foregoing provisions of this section nor any other provisions of this chapter shall prevent any resident from discarding that resident's recyclables by personally delivering them to a recycling plant, central collection site, manufacturer, or other vendor, but in no event shall the foregoing eliminate, limit or reduce such resident's obligation to pay the service charge pursuant to section 18-29(a) of this chapter.
  - (5) The city may designate a central collection site for the discarding of recyclables.
- (d) Disposal of recyclables.
- (1) Recyclables which have been separated from other refuse, garbage, rubbish, waste matter and compostables shall not, in any event:
    - a. Be deposited in any landfill; or
    - b. Be incinerated; or
    - c. Be deposited or distributed in any way or manner contrary to applicable laws, statutes, ordinances, rules or regulations.
  - (2) Notwithstanding the foregoing, the restrictions in (d)(1)a and (d)(1)b above shall not apply to any recyclables or compostables which are deposited in a landfill or incinerated pursuant to prior written approval granted by the city and the county, or state government.
- (e) *Ownership of recyclables.* All recyclables shall be owned by and be the responsibility of the residents of the premises until they are collected by the hauler at the curb. Upon collection of the recyclables at the curb by the hauler, the recyclables become the property and responsibility of the solid waste hauler.
- (f) Each resident shall be responsible for the cleanliness and proper care of each recyclables container in his/her possession.
- (g) *Reserved.*
- (h) The solid waste hauler's employees shall evaluate the condition of the recyclables container for possible reuse. If reusable they will be left with the resident at the curb for the next week's collection. In the event that the recyclables container is determined to be unserviceable for another week, a new recyclables container furnished by the solid waste hauler will be left with the resident and the old recyclables container will be collected and recycled. Recyclables containers will be exchanged on a one-for-one basis as determined by its condition at collection time.
- (i) Solid waste hauler's report.
- (1) The solid waste hauler may retain all proceeds of the sale of recyclables received from recycling plants, manufactures and other users.
  - (2) The solid waste hauler shall submit a monthly summary of the quantity and kinds of recyclables materials collected and the primary purchaser(s) of those materials. Monthly summaries shall be submitted no later than the fifteenth day of the month following the month for which the report

is submitted. A weight ticket showings tons of recyclables and compostables collected shall accompany each report.

- (j) The solid waste hauler shall dispose of recyclables at a local recycling facility, if available; otherwise the solid waste hauler may sell the recyclables to any purchaser of his/her choosing, unless otherwise directed by the director. The solid waste hauler shall be entitled to retain the proceeds of any sale thereof.
- (k) In order to effect a smooth transition to the voluntary recycling program, the solid waste hauler shall provide, at its cost, training and education for the residents of the city that is necessary to effectuate the program.

(Ord. No. 568, § 1, 6-6-95; Ord. No. 980, §§ 1, 2, 7-21-09)

Secs. 18-6—18-25. - Reserved.

## ARTICLE II. - ADMINISTRATION

### Sec. 18-26. - Franchises and Permits.

- (a) No person shall engage in the business of collecting and transporting solid waste within the corporate limits of the city without first obtaining a franchise or permit therefor, as the case may be, from the city; provided, however, that this provision shall not be deemed to apply to employees of the holder of any such franchise or permit nor to persons composting on their own property.
- (b) No such franchise or permit shall be issued until and unless the applicant therefor, in addition to all other requirements set forth, files and maintains with the director evidence of a satisfactory public liability insurance policy covering all operations of such applicant pertaining to such business and all vehicles to be operated in the conduct thereof, in an amount not less than three hundred thousand dollars (\$300,000.00) per person and five hundred thousand dollars (\$500,000.00) per accident, and in the amount of not less than three hundred thousand dollars (\$300,000.00) for damage to property. Should any such policy be canceled, the director shall be notified of such cancellation by the insurance carrier in writing not less than ten (10) days prior to the effective date of such cancellation, and provisions to that effect shall be incorporated in such policy, which shall also place upon the company writing such policy the duty to give such notice.
- (c) Each applicant for any such permit shall state in his/her application therefor:
  - (1) The nature of the permit desired: the collection of solid waste, the transportation of solid waste, or any combination thereof;
  - (2) The characteristics of solid waste to be collected or transported;
  - (3) The number of solid waste vehicles to be operated thereunder;
  - (4) The precise locations of solid waste processing or disposal facilities to be used;
  - (5) Boundaries of the collection area; and
  - (6) Such other information as may be required by the director.
- (d) If the application shows that the applicant will collect or transport solid wastes without hazard to the public health or damage to the environment and in conformity with applicable federal laws, the laws of the state, the county, and this Code, a permit shall be issued for the period of one (1) year and the franchisee shall pay therefor a fee of one hundred fifty dollars (\$150.00) for each fiscal year the franchise is to be operating in the city and a fee of ten dollars (\$10.00) for each collection or transporting vehicle to be used in the city. Persons composting their own yard wastes are exempt from the provisions of this section.

- (e) The annual permit may be renewed upon payment of the fee or fees as designated herein if the business has not been modified. If modifications have been made, the applicant shall reapply for a permit as set forth in this chapter. No permits authorized by this Code shall be transferable from person to person.
- (f) In order to insure compliance with applicable federal, state, county, and city laws, and the rules and regulations authorized therefrom, the director is authorized to inspect all phases of solid waste management within the city. No inspection shall be made in any residential unit unless authorized by the occupant or by due process of law. In all instances where inspections reveal a violation of this Code, the rules and regulations authorized herein for the storage, collection, transportation, or disposal of solid waste, or federal laws or the laws of the state, the director shall issue notice for each such violation stating therein the violation or violations found, the time and date and the corrective measure to be taken together with the time in which such corrections shall be made.
- (g) In all cases when the corrective measures have not been taken within the time specified, the director shall suspend or revoke the permit or permits involved in the violation. However, in those cases where an extension of time will permit correction and there is no public health hazard created by the delay, an extension of time may be granted.
- (h) Any person who feels aggrieved by any notice of violation or order issued by the director may, within thirty (30) days of the act for which redress is sought appeal directly to the circuit court of St. Louis County in writing, setting forth in a concise statement of the act being appealed and the grounds for its reversal.
- (i) All motor vehicles operating under any permit required by this chapter shall display the vehicle number on each side in colors which contrast with that of the vehicle, such numbers to be clearly legible and not less than six (6) inches high.
- (j) All trailers used for the purpose of collecting or transporting solid waste shall be subject to the provisions set forth in this section.

(Ord. No. 568, § 1, 6-6-95)

#### Sec. 18-27. - Rules and regulations.

The director shall enforce, and with the approval of the city council, make, amend and revoke reasonable and necessary rules and regulations governing the collection and transportation of solid waste. A copy of any and all rules and regulations made and promulgated under the provisions hereof shall be filed in the office of the city clerk of the city.

(Ord. No. 568, § 1, 6-6-95)

#### Sec. 18-28. - Prohibited practices.

It shall be unlawful for any person to:

- (1) Deposit solid waste in any solid waste container other than his/her own or place his/her container in front of the premises of another with the intent of avoiding payment of the service charge hereinafter provided for solid waste collection and disposal.
- (2) Interfere in any manner with solid waste collection equipment or with solid waste collectors in the lawful performance of their duties.
- (3) Burn solid waste unless an approved incinerator is provided or unless a variance has been obtained from the appropriate county air pollution control agency.

- (4) Dispose of solid waste at any facility or location which is not approved in accordance with applicable federal, state, county and city laws.
- (5) Engage in collecting and transporting of solid waste and spill or litter upon the public ways or private property any solid waste without subsequently and immediately removing same and restoring the affected area to its original condition.

The minimum fine for a person convicted of a violation of this section shall be two hundred dollars (\$200.00), and if the violation occurs from a vehicle, the minimum fine shall be two hundred fifty dollars (\$250.00).

- (6) Transport, act or engage in the business of collecting and transporting, solid waste, except recyclables, within the corporate city limits of the city without a franchise and a yearly permit from the city, or operate under an expired permit, or operate after a permit has been suspended or revoked.
- (7) Engage in the collection of any refuse, garbage or trash from residential areas, including condominiums, between the hours of 6:00 p.m. and 6:00 a.m.
- (8) Locate a dumpster closer than twenty (20) feet from the property line of a single-family dwelling district.
- (9) Fail to pay the service charge described in Section 18-29 of this chapter upon the third billing for such service.

(Ord. No. 568, § 1, 6-6-95; Ord. No. 606, §§ 2, 3, 2-18-97; Ord. No. 1077, § 2, 8-18-15)

#### Sec. 18-29. - Service charges.

- (a) There is hereby imposed, for the collection and disposal of solid waste and recyclables, a service charge for each single-family dwelling unit to which such service shall be provided under the provisions of this chapter. The service charge for such collection and disposal shall be at the contractual rate per calendar month per dwelling unit. The service charge shall be collected by the franchisee of the city in accordance with the franchisee's contract with the city.
- (b) There is hereby imposed, for the collection and disposal of solid waste, a service charge for each multiple housing facility to which service shall be provided under the provisions of this chapter. The service charge for such collection and disposal shall be at the contractual rate per calendar month per facility or establishment. The service charge shall be collected by the franchisee of the city in accordance with the franchisee's contract with the city.
- (c) The service and service charge shall be terminated upon presentation of satisfactory proof by the occupant or owner of the dwelling unit, facility or establishment to the director that any such dwelling unit or establishment is unoccupied, and shall be commenced upon renewed occupancy thereof. Said service can be terminated if the service charge is not paid upon the third billing for such service, after due notice of such termination is provided to the occupant and the director.

The system of services established by the provisions of this Code is designed as an integral part of the city's program of health and sanitation.

(Ord. No. 568, § 1, 6-6-95; Ord. No. 980, § 3, 7-21-09)

#### Sec. 18-30. - Penalties.

Any person violating any of the provisions of this chapter or any lawful rules or regulations promulgated hereunder, upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) nor more than one thousand dollars (\$1,000.00), provided that each subsequent violation thereof shall

be a separate offense for the purpose hereof.

(Ord. No. 568, § 1, 6-6-95; Ord. No. 896, § 1, 12-5-06)

## Chapter 19 - STREETS AND SIDEWALKS<sup>[1]</sup>

*Footnotes:*

— (1) —

**Cross reference**— *Definitions and rules of construction generally, § 1-2; affixing of advertisements to public places, § 11-25; parking vehicle on highway to display for sale, § 11-87; parking vehicle on highway to display advertising, § 11-88; obstructing roads, § 11-91; defacing roads, etc., in parks, § 14-45; traffic, Ch. 20; driving vehicles on sidewalks, § 20-274; railroad trains blocking streets, § 20-281; franchises, App. A; streets, alleys and sidewalks in subdivisions, App. B, §§ 148, 150, 160, 170, 180, 250, 240, 290.*

**State Law reference**— *Authority of city to regulate streets, RSMo. § 77.540.*

## ARTICLE I. - IN GENERAL

Sec. 19-1. - Recreation equipment on public rights-of-way.

- (a) *Prohibited.* No person shall place or erect a basketball hoop, playground or sports-related apparatus or similar objects on or within a public right-of-way, which includes any roadway located therein, or sidewalk, nor shall any person use such apparatus or object for any activity conducted within a right-of-way or on a sidewalk.
- (b) *Removal of apparatus.* The public works director or his designated representative or any law enforcement officer of the city, may remove any such apparatus or object from a right-of-way or sidewalk.
- (c) *Penalty for violation of section.* Every person convicted of a violation of this section shall be punished by a fine of not less than one dollar (\$1.00) and no more than one thousand dollars (\$1,000.00), or by detention in the county jail for not more than one (1) year, or by both such fine and imprisonment.

(Ord. No. 857, §§ 1—3, 4-19-05; Ord. No. 896, § 1, 12-5-06)

Secs. 19-2—19-15. - Reserved.

## ARTICLE II. - EXCAVATIONS

### DIVISION 1. - GENERALLY

Sec. 19-16. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Applicant* is any person making written application to the city clerk for an excavation permit pursuant to this article.

*Excavation work* is the excavation and other work permitted under an excavation permit and required to be performed under this article.

*Permittee* is any person who has been granted and has in full force and effect an excavation permit issued pursuant to this article.

(Ord. No. 79, § 2, 9-18-72)

Sec. 19-17. - Exemption.

The provisions of this article shall not be applicable to any excavation work under the direction of competent city authorities by employees of the city or by any contractor of the city performing work for and in behalf of the city necessitating openings or excavations in streets.

(Ord. No. 79, § 39, 9-18-72)

Sec. 19-18. - Inspections.

The director of public works shall make such inspections as are reasonably necessary in the enforcement of this article.

(Ord. No. 79, § 37, 9-18-72)

Sec. 19-19. - Rules and regulations.

The director of public works shall have the authority to promulgate, and cause to be enforced, such rules and regulations as may be necessary to enforce and carry out the intent of this article.

(Ord. No. 79, § 37, 9-18-72)

Sec. 19-20. - Liability of city.

This article shall not be construed as imposing upon the city or any official or employee any liability or responsibility for damages to any person injured by the performance of any excavation work for which an excavation permit is issued hereunder, nor shall the city or any official or employee thereof be deemed to have assumed any such liability, or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work.

(Ord. No. 79, § 41, 9-18-72)

Sec. 19-21. - Drawings of subsurface street space.

Users of sub-surface street space shall maintain accurate drawings, plans, and profiles showing the location and character of all underground structures, including abandoned installations. Corrected maps shall be filed with the director of public works within sixty (60) days after new installations, changes or replacements are made.

(Ord. No. 79, § 38, 9-18-72)

Sec. 19-22. - Routing of traffic.

The permittee shall take appropriate measures to assure that during the performance of the excavation work traffic conditions as nearly normal as practicable shall be maintained at all times so as to cause as little inconvenience as possible to the occupants of the abutting property and to the general public, provided that the director of public works may permit the closing of streets to all traffic for a period of time prescribed by him if in his opinion it is necessary. The permittee shall route and control traffic including its own vehicles as directed by the police department. The following steps shall be taken before any street may be closed or restricted to traffic:

- (1) The permittee must receive the approval of the director of public works therefor;
- (2) The permittee must notify the chief of the fire department and the county police department of any street so closed;

Upon completion of construction work the permittee shall notify the director of public works and police department before traffic is moved back to its normal flow so that any necessary adjustments may be made;

- (4) Where flagmen are deemed necessary by the street commissioner they shall be furnished by the permittee at its own expense. Through traffic shall be maintained without the aid of detours, if possible. In instances in which this would not be feasible the director of public works will designate detours. The city shall maintain roadway surfaces of existing highways designated as detours without expense to the permittee but in case there are no existing highways the permittee shall construct all detours at its expense and in conformity with the specifications of the director of public works. The permittee will be responsible for any unnecessary damage caused to any streets by the operation of its equipment.

(Ord. No. 79, § 9, 9-18-72)

Sec. 19-23. - Clearance for fire equipment.

The excavation work shall be performed and conducted so as not to interfere with access to fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fire plugs. Passageways leading to fire escapes or fire-fighting equipment shall be kept free of piles of material or other obstructions.

(Ord. No. 79, § 10, 9-18-72)

Sec. 19-24. - Protection of traffic.

The permittee shall erect and maintain suitable timber barriers to confine earth from trenches or other excavations in order to encroach upon streets as little as possible. The permittee shall construct and maintain adequate and safe crossings over excavations and across highways under improvement to accommodate vehicular and pedestrian traffic at all street intersections. Vehicular crossings shall be constructed and maintained of plank, timbers and blocking of adequate size to accommodate vehicular traffic safely or by other decking authorized by the director of public works. Wood decking shall be not less than four inches thick and shall be securely fastened together with heavy wire and staples. Pedestrian crossings shall consist of planking three (3) inches thick, twelve (12) inches wide and of adequate length, together with necessary blocking or by other decking authorized by the director of public works. The walk shall be not less than three (3) feet in width and shall be provided with a railing as required by the director of public works.

(Ord. No. 79, § 11, 9-18-72)

Sec. 19-25. - Protection of utilities.

The permittee shall not interfere with any existing utility without the written consent of the director of public works and the utility company or person owning the utility. If it becomes necessary to remove an existing utility this shall be done by its owner. No utility owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned utilities shall be similarly borne by the permittee unless it makes other arrangements with the person owning the utility. The permittee shall support and protect by timbers or otherwise all pipes, conduits, poles, wires or other apparatus which may be in any way affected by the excavation work, and do everything necessary to support, sustain and protect them under, over, along or across said work. In case any of said pipes, conduits, poles, wires or apparatus should be damaged, they shall be repaired by the

agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefor. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, gas pipe, electric conduit or other utility and its bond shall be liable therefor. The permittee shall inform itself as to the existence and location of all underground utilities and protect the same against damage.

(Ord. No. 79, § 12, 9-18-72)

Sec. 19-26. - Protection of adjoining property.

The permittee shall at all times and at his own expense preserve and protect from injury any adjoining property by providing proper foundations and taking other measures suitable for the purpose. Where in the protection of such property it is necessary to enter upon private property for the purpose of taking appropriate protective measures, the permittee shall obtain permission from the owner of such private property for such purpose and if he cannot obtain a license from such owner the director of public works may authorize him to enter the private premises solely for the purpose of making the property safe. The permittee shall, at its own expense, shore up and protect all buildings, walls, fences or other property likely to be damaged during the progress of the excavation work and shall be responsible for all damage to public or private property or highways resulting from its failure properly to protect and carry out said work. Whenever it may be necessary for the permittee to trench through any lawn area, the sod shall be carefully cut and rolled and replaced after ditches have been back filled as required in this article. All construction and maintenance work shall be done in a manner calculated to leave the lawn area clean of earth and debris and in a condition as nearly as possible to that which existed before such work began. The permittee shall not remove even temporarily any trees or shrubs which exist in parking strip areas or easements across private property without first having notified and obtained the consent of the property owner, or in the case of public property the appropriate city department or city official having control of such property.

(Ord. No. 79, § 13, 9-18-72)

Sec. 19-27. - Preservation of monuments.

The permittee shall not disturb any surface monuments or hubs found on the line of excavation work until ordered to do so by the director of public works, and should monuments or hubs be moved or destroyed, the permittee shall replace same and, if necessary, re-survey the affected areas.

(Ord. No. 79, § 36, 9-18-72)

Sec. 19-28. - Noise, dust and debris.

Each permittee shall conduct and carry out the excavation work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable to the performance of the excavation work, noise, dust and unsightly debris and during the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the director of public works or in case of an emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property.

(Ord. No. 79, § 35, 9-18-72)

Sec. 19-29. - Sidewalk excavations.

Any excavation made in any sidewalk or under a sidewalk shall be provided with a substantial and adequate footbridge over said excavation on the line of the sidewalk, which bridge shall be at least three (3) feet wide and securely railed on each side so that passengers on foot can pass over safely at all times.

(Ord. No. 79, § 14, 9-18-72)

Sec. 19-30. - Protective measures.

The permittee shall erect such fence, railing or barriers about the site of the excavation work as shall prevent danger to persons using the city street or sidewalks, and such protective barriers shall be maintained until the work shall be completed or the danger removed. At twilight there shall be placed upon such place of excavation and upon any excavated materials or structures or other obstructions to streets suitable and sufficient lights which shall be kept burning throughout the night during the maintenance of such obstructions. It shall be unlawful for anyone to remove or tear down the fence or railing or other protective barriers or any lights provided therefor the protection of the public.

(Ord. No. 79, § 15, 9-18-72)

Sec. 19-31. - Attractive nuisances.

It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of excavation or opening any machinery, equipment or other device having the characteristics of an attractive nuisance to attract children and hazardous to their safety or health.

(Ord. No. 79, § 16, 9-18-72)

Sec. 19-32. - Care of excavated material.

All material excavated from trenches and piled adjacent to the trench or in any street shall be piled and maintained in such manner as not to endanger those working in the trench, pedestrians, homeowners, property owners or users of the streets, and so that as little inconvenience as possible is caused to those using streets and adjoining property. Where the confines of the area being excavated are too narrow to permit the piling of excavated material beside the trench, such as might be the case in a narrow alley, the permittee shall, at its own expense, immediately remove, and lawfully dispose of, all excavated material. It shall be the permittee's responsibility to secure the necessary permission and make all necessary arrangements for all disposal sites.

(Ord. No. 79, § 17, 9-18-72; Ord. No. 844, § 2, 12-21-04)

Sec. 19-33. - Repair of damage to existing improvements.

All damage done to existing improvements during the progress of the excavation work shall be repaired by the permittee. Materials for such repair shall conform with the requirements of any applicable code or ordinance. If upon being ordered, the permittee fails to furnish the necessary labor and materials for such repairs the director of public works shall have the authority to cause said necessary labor and materials to be furnished by the city and the cost shall be charged against the permittee, and the permittee shall also be liable on his bond therefor.

(Ord. No. 79, § 18, 9-18-72)

Sec. 19-34. - Clean-up.

As the excavation work progresses all streets and private properties shall be thoroughly cleaned of all rubbish, excess earth, rock and other debris resulting from such work. All clean-up operations at the location of such excavation shall be accomplished at the expense of the permittee and shall be completed to the satisfaction of the director of public works. From time to time as may be ordered by the director of public works and in any event immediately after completion of said work, the permittee shall, at his own expense, clean up and remove all refuse and unused materials of any kind resulting from said work, and upon failure to do so within twenty-four (24) hours after having been notified to do so by the director of public works said work may be done by the director of public works and the cost thereof charged to the permittee, and the permittee shall also be liable for the cost thereof under the surety bond provided for in this article.

(Ord. No. 79, § 20, 9-18-72)

Sec. 19-35. - Protection of watercourses.

The permittee shall provide for the flow of all watercourses, sewers or drains intercepted during the excavation work and shall replace the same in as good condition as it found them or shall make such provisions for them as the director of public works may direct. The permittee shall not obstruct the gutter of any street but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings or other run-off pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from its failure to so provide.

(Ord. No. 79, § 21, 9-18-72)

Sec. 19-36. - Breaking through pavement.

Whenever it is necessary to break through existing pavement for excavation purposes and where trenches are to be four (4) feet or over in depth, the pavement in the base shall be removed to at least six (6) inches beyond the outer limits of the sub-grade that is to be disturbed in order to prevent settlement, and a six-inch shoulder of undisturbed material shall be provided in each side of the excavated trench. The face of the remaining pavement shall be approximately vertical. A power-driven concrete saw shall be used so as to permit complete breakage of concrete pavement or base without ragged edges. Asphalt paving shall be scored or otherwise cut in a straight line. No pile driver shall be used in breaking up the pavement.

(Ord. No. 79, § 22, 9-18-72)

Sec. 19-37. - Tunnels.

Tunnels under pavement shall not be permitted except by permission of the director of public works, and if permitted shall be adequately supported by timbering and back-filling under the direction of the director of public works.

(Ord. No. 79, § 23, 9-18-72)

Sec. 19-38. - Backfilling.

- (a) Any street opened or excavated pursuant to an excavation permit issued hereunder shall be backfilled by the permittee as required by this section immediately upon completion of the excavation work. The excavation shall be backfilled using "flowable fill" with a mix design approved by the director of public works or his or her designee. "Flowable fill" is self-leveling and self-compacting

cementitious material with an unconfined strength of one thousand two hundred (1,200) pounds per square inch (psi) or less, which material is a blend of cement, fly ash, sand and water, mixed to consistency of pancake batter. Backfills required by this section shall use flowable fill having a strength ranging from fifty (50) psi to two hundred (200) psi. When water is taken from a fire hydrant in mixing the flowable fill, the permittee shall assign one (1) person to operate the hydrant and shall make certain that said person has been instructed by the county water department in the operation of the hydrant. The water department shall likewise be notified at both the beginning and end of the job so that the condition of the fire hydrants can be checked on both occasions. Any damage done to the hydrant during the excavation shall be the responsibility of the permittee. Water shall be paid for by the permittee on the terms agreed upon with the water department.

- (b) Whenever any excavation for the laying of pipe is made through rock, the pipe shall be laid six (6) inches above the rock bottom of the trench.
- (c) The permittee shall notify the city clerk or director of public works at least twenty-four (24) hours (exclusive of weekends and holidays when city hall is closed) before backfilling is begun, unless for good cause such notice is impractical, in which case as much advance notice as is reasonable under the circumstances shall be given.

(Ord. No. 79, §§ 24—28, 37, 9-18-72; Ord. No. 844, § 2, 12-21-04)

#### Sec. 19-39. - Trenches for pipe laying.

Except by special permission from the director of public works, no trench shall be excavated more than two hundred fifty (250) feet in advance of pipe laying or left unfilled more than five hundred (500) feet where pipe has been laid. The length of the trench that may be opened at any one time shall not be greater than the length of pipe and the necessary accessories which are available at the site ready to be put in place. Trenches shall be braced and sheathed according to generally accepted safety standards for construction work or as prescribed by the director of public works. No timber bracing, lagging, sheathing or other lumber shall be left in any trench after backfilling.

(Ord. No. 79, § 31, 9-18-72)

#### Sec. 19-40. - Restoration of surface.

- (a) The permittee shall restore the surface of all streets, broken into or damaged as a result of the excavation work, to its original condition in accordance with the specifications of the director of public works. The permittee may be required to place a temporary surface over openings made in paved traffic lanes. Except when the pavement is to be replaced before the opening of the cut to traffic, the fill above the bottom of the paving slab shall be made with suitable material well tamped into place and this fill shall be topped with a minimum of at least one inch of bituminous mixture which is suitable to maintain the opening in good condition until permanent restoration can be made. The crown of the temporary restoration shall not exceed one inch above the adjoining pavement. The permittee shall exercise special care in making such temporary restorations and must maintain such restorations in safe traveling conditions until such time as permanent restorations are made. The asphalt which is used shall be in accordance with the specifications of the director of public works. If in the judgment of the director of public works it is not expedient to replace the pavement over any cut or excavation made in the street upon completion of the work allowed under such permit by reason of the looseness of the earth or weather conditions he may direct the permittee to lay a temporary pavement of wood or other suitable material designated by him over such cut or excavation to remain until such time as the repair of the original pavement may be properly made.

- (b) Permanent restoration of the street shall be made by the permittee in strict accordance with the specifications prescribed by the director of public works to restore the street to its original and proper condition, or as near as may be.
- (c) Acceptance or approval of any excavation work by the director of public works shall not prevent the city from asserting a claim against the permittee and his surety under the surety required bond for incomplete or defective work if discovered within twenty-four (24) months from the completion of the excavation work. The director of public works' presence during the performance of any excavation work shall not relieve the permittee of its responsibilities hereunder.
- (d) If the permittee shall have failed to restore the surface of the street to its original and proper condition upon the expiration of the time fixed by such permit or shall otherwise have failed to complete the excavation work covered by such permit, the director of public works, if he deems it advisable, shall have the right to do all work and things necessary to restore the street and to complete the excavation work. The permittee shall be liable for the actual cost thereof and twenty-five (25) percent of such cost in addition for general overhead and administrative expenses. The city shall have a cause of action for all fees, expenses and amounts paid out and due it for such work and shall apply in payment of the amount due it any funds of the permittee deposited as herein provided and the city shall also enforce its rights under the permittee's surety bond provided pursuant to this article.
- (e) It shall be the duty of the permittee to guarantee and maintain the site of the excavation work in the same condition it was prior to the excavation for two (2) years after restoring it to its original condition.

(Ord. No. 79, §§ 29, 30, 9-18-72)

Sec. 19-41. - Completion of work.

The permittee shall prosecute with diligence and expedition all excavation work covered by the excavation permit and shall promptly complete such work and restore the street to its original condition, or as near as may be, as soon as practicable and in any event not later than the date specified in the excavation permit therefor.

(Ord. No. 79, § 32, 9-18-72)

Sec. 19-42. - Emergency work.

- (a) If in his judgment traffic conditions, the safety or convenience of the traveling public or the public interest require that the excavation work be performed as emergency work, the director of public works shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee twenty-four (24) hours a day to the end that such excavation work may be completed as soon as possible.
- (b) In the event of any emergency in which a sewer, main, conduit or utility in or under any street breaks, bursts or otherwise is in such condition as to immediately endanger the property, life, health or safety of any individual, the person owning or controlling such sewer, main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health or safety of individuals, however, such person owning or controlling such facility shall apply for an excavation permit not later than the end of the next succeeding day during which the director of public works' office is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit

(Ord. No. 79, §§ 33, 34, 9-18-72)

Secs. 19-43—19-55. - Reserved.

DIVISION 2. - PERMIT

Sec. 19-56. - Required.

It shall be unlawful for any person to dig up, break, excavate, tunnel, undermine or in any manner break up any street or to make or cause to be made any excavation in or under the surface of any street for any purpose or to place, deposit or leave upon any street any earth or other excavated material obstructing or tending to interfere with the free use of the street, unless such person shall first have obtained an excavation permit therefor from the city clerk.

(Ord. No. 79, § 3, 9-18-72)

Sec. 19-57. - Application and plans.

No excavation permit shall be issued unless a written application for the issuance of an excavation permit is submitted to the city clerk. The written application shall state the name and address of the applicant, the nature, location, and purpose of the excavation, the date of commencement and date of completion of the excavation, and other data as may reasonably be required by the director of public works through the city clerk. The application shall be accompanied by plans showing the extent of the proposed excavation work, the dimensions and elevations of both the existing ground prior to said excavation and of the proposed excavated surfaces, the location of the excavation work, property lines and limits of easements, and such other information as may be prescribed by the director of public works through the city clerk. All excavations must be confined to, or kept within, the limits shown on such plan. Plans may be waived for minor work.

(Ord. No. 79, §§ 4, 19, 9-18-72)

Sec. 19-58. - Fees.

- (a) A permit fee shall be charged by the director of public works payable to the clerk for the issuance of an excavation permit which shall be in addition to all other fees for permits or charges relative to any proposed construction work. The excavation permit fee shall be in an amount varying with the type of surface to be opened, dug, or excavated under the permit issued, as follows:
- (1) On unpaved streets (including shoulder and sidewalk areas) .....\$7.50
  - (2) On streets paved with oil or water bound macadam .....10.00
  - (3) On streets paved with cement concrete base or cement concrete .....10.00
  - (4) On streets paved with asphalt concrete and bitulithic on broken rock .....7.50
- (b) An inspection fee shall be charged by the director of public works at the time of the issuance of an excavation permit, as follows:
- (1) On unpaved streets (including shoulder and sidewalk areas) .....\$7.50
  - (2) On streets paved with oil or water bound macadam .....10.00
  - (3) On streets paved with cement concrete base or cement concrete .....10.00
  - (4) On streets paved with asphalt concrete and bitulithic on broken rock .....10.00

(Ord. No. 79, § 5, 9-18-72)

Sec. 19-59. - Form; display.

The city clerk shall provide each permittee at the time a permit is issued hereunder a suitable permit plainly written or printed in English letters with the following notice: "City of Black Jack, Permit No. \_\_\_\_\_ Expires \_\_\_\_\_" and in the first blank space there shall be inserted the number of said permit and after word "expires" shall be stated the date when said permit expires. It shall be the duty of any permittee hereunder to keep the permit posted in a conspicuous place at the site of the excavation work. It shall be unlawful for any person to exhibit such permit at or about any excavation not covered by such permit, or to misrepresent the number of the permit or the date of expiration of the permit.

(Ord. No. 79, § 6, 9-18-72)

Sec. 19-60. - Bond.

Before an excavation permit is issued, the applicant shall deposit with the city clerk a surety bond in the amount of ten thousand dollars (\$10,000.00) payable to the city, or in such lower amount as approved by the street commissioner upon application being made therefor by the applicant. The required surety bond must be:

- (1) With good and sufficient surety.
- (2) By a surety company authorized to transact business in the state.
- (3) Satisfactory to the city attorney in form and substance.
- (4) Conditioned upon the permittee's compliance with this article and to secure and hold the city and its officers harmless against any and all claims, judgments, or other costs arising from the excavation and other work covered by the excavation permit or for which the city, the city council or any city officer may be made liable by reason of an accident or injury to persons or property through the fault of the permittee either in not properly guarding the excavation or for any other injury resulting from the negligence of the permittee and further conditioned to fill up, restore and place in good and safe condition as near as may be to its original condition, and to the satisfaction of the director of public works, all openings and excavations made in streets and to maintain any street where excavation is made in as good condition for the period of twenty-four (24) months after said work shall have been done, usual wear and tear excepted, as it was in before said work shall have been done.

Any settlement of the surface within said two-year period shall be deemed conclusive evidence of defective backfilling by the permittee. Nothing herein contained shall be construed to require the permittee to maintain any repairs to pavement made by the city if such repairs should prove defective. Any owner of real estate repairing or engaging another to repair his own sidewalk shall not be required to give such bond. Recovery on such bond for any injury or accident shall not exhaust the bond but it shall in its entirety cover any or all future accidents or injuries during the excavation work for which it is given. In the event of any suit or claim against the city by reason of the negligence or default of the permittee, upon the city giving written notice to the permittee of such suit or claim, any final judgment against the city requiring it to pay for such damage shall be conclusive upon the permittee and his surety. An annual bond may be given under this provision which shall remain in force for one year conditioned as above and in other respects as specified above but applicable as to all excavation work in streets by the principal in such bond during the term of one year from said date.

(Ord. No. 79, § 7, 9-18-72)

Sec. 19-61. - Cash deposits.

- (a) The application for an excavation permit shall be accompanied with a cash deposit, made to the city clerk for deposit with the city treasurer, as follows:
- (1) A sum equal to one dollar and fifty cents (\$1.50) per square foot of surface of each excavation to be made in streets which have been paved with cement concrete base or cement concrete;
  - (2) A sum equal to one dollar (\$1.00) for each square foot of surface of each excavation to be made in streets which have been macadamized;
  - (3) A sum equal to fifty cents (\$0.50) for each square foot of surface of each such excavation to be made in streets which are neither macadamized nor paved.

No deposit shall be less than twenty-five dollars (\$25.00).

- (b) Any person intending to make openings, cuts or excavations in streets may make and maintain with the city treasurer a general deposit in the sum of one hundred dollars (\$100.00) and the person so depositing shall not be required to make the special deposits provided in this section but shall, however, be required to comply with all other applicable provisions of this article. Any special or general deposit made hereunder shall serve as security for the repair and performance of work necessary to put the street in as good a condition as it was prior to the excavation if the permittee fails to make the necessary repairs or to complete the proper refilling of the opening and the excavation work under the excavation permit. Ninety (90) days following the permittee's completion of the work covered by such permit in conformity with this article as determined by the director of public works, two-thirds of such cash deposit, except in the case of an annual deposit, shall be promptly refunded by the city to the permittee and the balance shall be refunded by the city to the permittee upon the expiration of such twenty-four-month period; provided, however, that as to any annual deposit two-thirds thereof shall be refunded by the city at the end of the one year period for which the deposit is made or ninety (90) days following the satisfactory completion of all excavation work undertaken during such period, whichever is later, and the balance of the annual deposit shall be refunded at the expiration of a twenty-four-month period following the completion of such excavation work, and provided further that the city may use any or all of any such deposit to pay the cost of any work the city performs to restore or maintain the street as herein provided in the event the permittee fails to perform such work, in which event the amount refunded to the permittee shall be reduced by the amount expended by the city.

(Ord. No. 79, § 8, 9-18-72)

#### Sec. 19-62. - Insurance.

A permittee, prior to the commencement of excavation work hereunder, shall furnish the director of public works satisfactory evidence in writing that the permittee has in force and will maintain in force during the performance of the excavation work and the period of the excavation permit, public liability insurance of not less than one hundred thousand dollars (\$100,000.00) for any one person and three hundred thousand dollars (\$300,000.00) for any one accident and property damage insurance of not less than fifty thousand dollars (\$50,000.00) duly issued by an insurance company authorized to do business in this state.

(Ord. No. 79, § 40, 9-18-72)

Secs. 19-63—19-75. - Reserved.

ARTICLE III. - PARADES<sup>[2]</sup>

Footnotes:

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**Cross reference**— *Permits for use of parks, § 14-43; refusal to disperse, § 11-44; driving through procession, § 20-271; driving in processions, § 20-272.*

#### Sec. 19-76. - Definitions.

As used in this article the following terms shall mean as follows:

*Parade:* Any parade, march, ceremony, show, exhibition, pageant or procession of any kind, or any similar display, in or upon any street, park or other public place in this municipality.

*Parade permit:* A permit as required by this article.

#### Sec. 19-77. - Permit required.

No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the chief of police.

(Ord. No. 222, § 3(300.325), 1-8-80)

#### Sec. 19-78. - Permit application.

- (a) A person seeking issuance of a parade permit shall file an application with the chief of police not less than five (5) days nor more than ten (10) days before the date on which it is proposed to conduct the parade on forms provided by such officer.
- (b) The application for a parade permit shall set forth the following information:
  - (1) The name, address and telephone number of the person seeking to conduct such parade;
  - (2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible heads of such organization;
  - (3) The name, address and telephone number of the person who will be the parade chairman and who will be responsible for its conduct;
  - (4) The date when the parade is to be conducted;
  - (5) The route to be traveled, the starting point and the termination point;
  - (6) The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles;
  - (7) The hours when such parade will start and terminate;
  - (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
  - (9) The location by streets of any assembly areas for such parade;
  - (10) The time at which units of the parade will begin to assemble at any such assembly area or areas;
  - (11) The interval of space to be maintained between units of such parade;
  - (12) If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his behalf;

- (13) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should issue.
- (c) The chief of police, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than five (5) days before the date such parade is proposed to be conducted.

Sec. 19-79. - Permit fee.

There shall be paid at the time of filing the application for a parade permit a fee of five dollars (\$5.00). This fee may be waived in whole or in part by the mayor.

Sec. 19-80. - Standards for issuance.

The chief of police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he finds that:

- (1) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;
- (2) The conduct of the parade will not require the diversion of so great a number of police officers of this municipality to properly police the line of movement and the areas contiguous thereto as to prevent normal police protection to this city;
- (3) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of this city other than that to be occupied by the proposed line of march and areas contiguous thereto;
- (4) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (5) The conduct of such parade will not interfere with the movement of fire-fighting equipment en route to a fire;
- (6) The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance;
- (7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route;
- (8) The parade is not to be held for the sole purpose of advertising any product, cause, goods or event and is not designed to be held purely for private profit.

Sec. 19-81. - Notice of permit rejection.

If the chief of police disapproves the permit application, he shall mail to the applicant within three (3) days after the date upon which the application was filed, a notice of his action.

Sec. 19-82. - Alternative permit.

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time, or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall, within two (2) days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements of, and shall have the effect of a parade permit under, this article.

Sec. 19-83. - Contents of permit.

Each parade permit shall state the following information:

- (1) Starting time;
- (2) Minimum speed;
- (3) Maximum speed;
- (4) Maximum interval of space to be maintained between the units of the parade;
- (5) The portions of the streets to be traversed that may be occupied by the parade;
- (6) The maximum length of the parade in miles or fractions thereof;
- (7) Such other information as the chief of police shall find necessary to the enforcement of this article.

Sec. 19-84. - Possession of permit.

The parade chairman or other person heading or leading such activity shall carry the parade permit upon his person during the conduct of the parade.

Sec. 19-85. - Compliance with law required.

A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.

Sec. 19-86. - Revocation of permit.

The chief of police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth.

Sec. 19-87. - Exceptions.

This article shall not apply to:

- (1) Funeral processions;
- (2) Students going to and from school classes or participating in educational activities, providing such conduct is under the immediate direction and supervision of the proper school authorities;
- (3) A governmental agency acting within the scope of its functions.

Secs. 19-88—19-99. - Reserved.

ARTICLE IV. - SNOW EMERGENCY<sup>[3]</sup>

*Footnotes:*

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**Cross reference—** *Traffic, Ch. 20.*

Sec. 19-100. - Definitions.

The following definitions shall apply in the interpretation and enforcement of this article:

- (a) The *Snow Coordinator* is the mayor or the director of public works or a designated substitute.
- (b) *Snow routes* are those streets marked as such in accordance with the provisions of this article.
- (c) *Snow tires* are radial tires or any other tires mounted on drive wheels of motor vehicles which are designed to give effective traction on snow, mud, or ice covered streets by means of extra heavy duty treads with specifically high-traction patterns except that no tire so defined shall be

construed to be a snow tire which is damaged or worn to the extent that its performance would be substantially impaired.

- (d) *Tire chains* are any metal chains mounted on drive wheel tires of a motor vehicle which cross the tread of each such tire laterally in at least three (3) different places.

(Ord. No. 410, § 1, 2-7-89; Ord. No. 1057, § 1, 5-20-14)

Sec. 19-101. - Parking on snow emergency routes.

- (a) Whenever the snow coordinator finds, on the basis of falling snow, sleet or freezing rain, or on the basis of a forecast by the U.S. Weather Bureau or other weather service of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on city streets be prohibited or restricted for snow plowing and other purposes, the snow coordinator shall put into effect a parking prohibition on parts or all snow routes as necessary by declaring it in a manner prescribed in this article.
- (b) Once in effect, prohibition under this section shall remain in effect until terminated by announcement of the snow coordinator in accordance with this article.

(Ord. No. 410, § 1, 2-7-89)

Sec. 19-102. - Conditions of motor vehicles operated on snow routes.

- (a) No person operating a motor vehicle on a snow route on which there is a covering of snow, sleet or ice shall allow such vehicle to become stalled wholly or partly because the drive wheels thereof are not equipped with effective tire chains or snow tires.
- (b) No person operating a motor vehicle on a part of a snow route on which there is a covering of snow, sleet or ice, or on which there is a parking prohibition in effect, shall allow such vehicle to become stalled because the motor fuel supply is exhausted or the battery has become inoperative.

(Ord. No. 410, § 1, 2-7-89)

Sec. 19-103. - Stalled vehicle on snow route.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this chapter, on any part of a snow route on which there is a covering of snow, sleet or ice, or on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow route onto the first cross street which is not a snow route. No person shall abandon or leave his vehicle in the roadway of a snow route regardless of whether he indicated, by raising the hood or otherwise, that the vehicle is stalled.

(Ord. No. 410, § 1, 2-7-89)

Sec. 19-104. - Declarations of the snow coordinator.

- (a) The snow coordinator shall cause each declaration of a snow route emergency made by him pursuant to this chapter to be publicly announced by means of broadcasts and/or telecasts from stations with a normal operating range covering the city, and he may cause such declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall describe the action taken by the snow coordinator including the time it became or will become effective, and shall specify the snow routes.
- (b) The snow coordinator shall make or cause to be made a record of each time and date when any declaration is announced to the public in accordance with this section.

(Ord. No. 410, § 1, 2-7-89)

Sec. 19-105. - Termination of parking prohibition by the snow coordinator.

Whenever the snow coordinator shall find that some or all of the conditions which gave rise to a parking prohibition in effect pursuant to this article no longer exist, he may declare the prohibition terminated, in whole or in part, in a manner prescribed by this article, effective immediately upon announcement.

(Ord. No. 410, § 1, 2-7-89)

Sec. 19-106. - Provisions temporarily effective to take precedence.

Any provision of this article which becomes effective by declaration of the snow coordinator or upon the occurrence of certain weather conditions shall, while temporarily in effect, take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions of a police officer.

(Ord. No. 410, § 1, 2-7-89)

Sec. 19-107. - Signs to mark snow routes.

On each street designated by this article as a snow route, the snow coordinator shall post special signs at intervals indicating that this is a snow route. These signs shall be distinctive and uniform in appearance and shall be plainly readable by persons traveling on the street.

(Ord. No. 410, § 1, 2-7-89)

Sec. 19-108. - Towing of cars on marked snow routes.

- (a) Whenever any vehicle shall be found parked or abandoned on a snow route in violation of this article, such vehicle may be removed and conveyed by means of towing and impounding to a lot or location designated by a member of the city's police department.
- (b) Owner's responsibility. The presence of any vehicle found parked or abandoned in violation of this article on any snow routes shall be a prima facie evidence that the person, firm or corporation in whose name such vehicle is registered in the records of the Director of Revenue of the State of Missouri, committed or authorized such violation. It shall be the responsibility of all vehicle owners to determine when snow emergencies have been declared by the snow coordinator.

(Ord. No. 410, § 1, 2-7-89; Ord. No. 936, § 1, 5-20-08; Ord. No. 1057, § 2, 5-20-14)

Sec. 19-109. - Snow emergency routes designated.

The streets or parts of streets listed below are snow emergency routes and shall be plowed first upon the occurrence of a snow or ice event, and a list of the streets or parts of streets designated by this paragraph as snow emergency routes shall be kept on file in the office of the city clerk and shall be available to the public for examination.

Jerries Lane from Parker Road to Trail Bend.

Trail Bend from Jerries Lane to Old Jamestown Road.

Parkton from Old Jamestown to North View Heights.

Jamestown Ridge Road from North View Heights to Old Jamestown Road.

Broadridge from Jamestown Ridge Road to Mouse

Meuse from Broadridge to Old Jamestown Road.

Centerbrook from Parker Road to Craigmont.

Craigmont from Centerbrook to Winterset.

Winterset from Craigmont to Abington.

Abington from Winterset to Bristol Rock Road.

Bristol Rock Road from Old Halls Ferry Road to Elk Trail.

Elk Trail from Bristol Rock Road to Edgemere.

Vanderwood from Old Halls Ferry to dead end.

(Ord. No. 986, § 1, 9-15-09)

**Editor's note—** Ord. No. 986, § 1, adopted Sep. 15, 2009, deleted § 19-109 in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 19-109 pertained to similar subject matter. See Code Comparative Table for derivation.

Sec. 19-110. - Depositing of snow and ice restricted.

No person, partnership, corporation, limited liability company, joint stock company, syndicate, or association shall deposit or cause to be deposited any snow or ice on any street, sidewalk, against a fire hydrant, or on any unloading area of a public transportation system, except that snow and ice may be windrowed on public roadways incident to the cleaning thereof or windrowed on curbs incident to the cleaning of sidewalks in commercial districts.

(Ord. No. 410, § 1, 2-7-89; Ord. No. 1057, § 3, 5-20-14)

Sec. 19-111. - Interference with snow plows.

- (a) No vehicle shall impede or interfere in any way with a snow plow or other snow removal vehicle while such snow plow or other removal vehicle is in operation on city streets.
- (b) No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of width of the roadway for free movement of snow plows and other vehicular traffic.

(Ord. No. 410, § 1, 2-7-89; Ord. No. 1057, § 4, 5-20-14)

Sec. 19-112. - Reserved.

**Editor's note—** Ord. No. 936, § 2, adopted May 20, 2008, repealed § 19-112, in its entirety. Former § 19-112, pertained to exemption and derived from Ord. No. 410, § 1, adopted Feb. 7, 1989.

Sec. 19-113. - Penalties.

Any person convicted of a violation of any provision of this article shall be punished by a fine of not more than one thousand dollars (\$1,000.00).

(Ord. No. 410, § 1, 2-7-89; Ord. No. 896, § 1, 12-5-06)

Sec. 19-114. - Owner's responsibility.

The presence of any vehicle found parked or abandoned on a snow route shall be prima facia evidence that the person in whose name such vehicle is registered committed or authorized such violation.

(Ord. No. 1057, § 5, 5-20-14)

Sec. 19-115. - Removal of accumulations on sidewalk.

It shall be unlawful for the owner or occupant of any commercial building or premises or commercial vacant lot to permit any ice, snow, dirt, mud or filth of any character to remain longer than twenty-four (24) hours on any sidewalk fronting or immediately adjacent to the owner's or occupant's building, premises or vacant lot. Where premises are occupied by several tenants, it shall be the duty of the person owning the commercial building or the tenant operating in the commercial building to comply with the requirements of this section for that portion of sidewalk in front of his building or premises. For the purposes of this section, a commercial building or premises or commercial vacant lot shall mean a building, premises or lot located in a "C" district classification or the MXD classification under section 040(1) of the city's zoning code.

(Ord. No. 1057, § 6, 5-20-14)

## Chapter 20 - TRAFFIC<sup>[1]</sup>

*Footnotes:*

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**Cross reference**— *Definitions and rules of construction generally, § 1-2; operation of vehicle on real property without consent, § 11-20(c), d; unauthorized driving or tampering with motor vehicles, § 11-24; parking vehicles for sale, § 11-87; using vehicle parked on streets to display advertising, § 11-88; abandoned, wrecked or discarded vehicles, § 13-2; traffic regulations in parks, § 14-44; parking of vehicles in parks, § 14-45; streets and sidewalks, Ch. 19; measures to be taken to protect traffic during excavations, etc., § 19-24.*

## ARTICLE I. - IN GENERAL

Sec. 20-1. - Short title.

This chapter may be known and cited as the "Traffic Ordinance," and may be referred to as such when being amended.

(Ord. No. 222, § 3(300.001), 1-8-80)

Sec. 20-2. - Scope.

The provisions of this chapter shall apply to the geographical area incorporated as the city.

(Ord. No. 222, § 3(300.002), 1-8-80)

Sec. 20-3. - Special provision for county and state roads.

All regulations contained in this chapter regarding speed limits, the location, form and character or information, regulatory and warning signs, curb and pavement or other markings and traffic signals on state highways, shall be with the concurrence of the state highway commission. The state highway commission is hereby authorized to post and install all regulatory signs on the state highways. On all roads designated as part of the arterial road system of the county, the county, through its properly

authorized departments and commissions, shall have concurrent authority with the city to regulate speed limits, the location, form and character of information, regulatory and warning signs, curb and pavement or other markings and traffic signals.

(Ord. No. 222, § 3(300.003), 1-8-80)

#### Sec. 20-4. - Definitions.

The following words and phrases as used in this chapter shall, for the purpose of this chapter, have the meaning respectively ascribed to them:

*Alley or alleyway:* Any street with a roadway of less than twenty (20) feet in width.

*Angle parking:* The standing of any vehicle, whether occupied or not, upon a highway, road or street in a manner causing the longitudinal axis of vehicle to form an angle with the alignment of the roadway.

*Arterial roads:* Roads designated by the county as part of the arterial road system of the county.

*Authorized emergency vehicle:* A vehicle publicly owned and operated as an ambulance, or a vehicle publicly owned and operated by the state highway patrol, police or fire department, sheriff or constable or deputy sheriff, traffic officer or any privately owned vehicle operated as an ambulance when responding to emergency calls.

*Bicycle:* Every device propelled by human power upon which any person or persons may ride, having two (2) or more tandem wheels either or which is twenty (20) or more inches in diameter.

*Business district:* The territory contiguous to and including a highway when within any six hundred (600) feet along the highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations and public buildings which occupy at least three hundred (300) feet of frontage on one side or three hundred (300) feet collectively on both sides of the highway.

*Centerline:* A line marking the center of a roadway on which traffic moves in both directions or dividing the roadway between traffic moving in opposite directions.

*Central business (or traffic) district:* All streets and portions of streets within the area described by city ordinance as such.

*Commercial vehicle:* Every vehicle designed, maintained, or used primarily for the transportation of property.

*Construction vehicle:* Any vehicle or equipment used or designed for construction purposes.

*Controlled access highway:* Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over the highway, street or roadway.

*Crosswalk:* That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of

elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface;

*Curb:* The lateral boundaries of that portion of the street designated for the use of vehicles, whether marked with curbstones or not.

*Curb loading zone:* A space adjacent to a curb reserved for the exclusive use of vehicles, during the loading or unloading of passengers or materials.

*Director of public works:* The person duly appointed to the position of director of public works for the city, serving also as the city traffic engineer.

*Driver:* Every person who drives or is in actual physical control of a vehicle.

*Dump truck:* A heavy-duty truck having a bed that tilts backward to dump loose material.

*Farm tractor:* A tractor used exclusively for agricultural purposes.

*Freight curb loading zone:* A space adjacent to a curb for the exclusive use of vehicles during the loading or unloading of freight (or passengers).

*Highway:* The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

*Intersection* The area embraced within the prolongation or connection of the lateral curb lines; or, if none, then the lateral boundary lines for the roadways of two (2) highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict. Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways of such highways shall be regarded as a separate intersection.

*Jurisdiction:* The legal right, authority or power to make and enforce regulations for the direction or control of traffic.

*Land roadway:* A roadway which is divided into two (2) or more clearly marked lanes for vehicular traffic.

*Live or gross load:* The weight of the cargo of a commercial motor vehicle, in addition to that of the chassis and body of the vehicle.

*Motor vehicle:* Any self-propelled vehicle not operated exclusively upon tracks except farm tractors, motorized bicycles, motorized skateboards and motorized scooters.

*Motorcycle:* Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three (3) wheels in contact with the ground, but excluding a tractor.

*Motorized bicycle:* Any two-wheeled or three-wheeled device having fully operative pedals capable of propulsion by human power, an automatic transmission and a motor with a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than two (2) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty (30) miles per hour on level ground

*Motorized scooter:* A device with no more than two (2) fourteen-inch or smaller diameter wheels that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an internal combustion engine or electric motor that is capable of propelling the device, with or without human propulsion.

*Motorized skateboard:* A single platform mounted on wheels which has no mechanism or other device with which to steer or to control the movement or direction or velocity of the platform, and is powered by an internal combustion engine or electric motor that is capable of propelling the device, with or without human propulsion.

*Muffler cutouts:* Use of any device designed to bypass the reduction of the engine, exhaust noises.

*No passing zone:* Zones determined and indicated by signs or markings where overtaking and passing is deemed unsafe, and under this chapter is declared unlawful.

*Official time standard:* Whenever certain hours are named herein, they shall mean standard time or daylight-saving time, as may be in current use in the city.

*Official traffic control devices:* All signs, signals, markings and devices not inconsistent with this ordinance placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

*Official traffic signs:* All signs, markings and devices, other than signals not within this chapter, placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

*One-way street:* A street where vehicles are by law required to move in one designated direction only.

*Operator:* Any person who is in actual physical control of a vehicle.

*Panel truck:* A van suitable for delivering goods or services to customers.

*Park or parking:* The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

*Passenger curb loading zone:* A place adjacent to a curb reserved for the exclusive use of vehicles during the loading of passengers.

*Pedestrian:* Any person afoot.

*Pneumatic tires:* Tires of rubber or other substance and fabric, inflated with air.

*Police officer:* Every officer of the municipal police department or any officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

*Private road or driveway:* Every way or place in private ownership and use for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

*Railroad:* A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

*Railroad train:* A steam engine, electric or other motor, with or without cars coupled thereto; operated upon rails, except streetcars.

*Recreational vehicle:* Any vehicle, watercraft, aircraft, or land craft designed or used for recreational type activities including, without limitation, travel trailers, motor homes, campers, boats, gliders, jet skis, ATV's, hot air balloons, and accessories or any trailer used to haul such vehicle or craft.

*Residence district:* The territory contiguous to an including a highway not comprising a business district when the property on such highway for a distance of three hundred (300) feet or more is in the main improved with residences or residences and buildings in use for business.

*Right-of-way:* The right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

*Roadway:* That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway included two (2) or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately, but not to all such roadways collectively.

*Safety zone:* The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

*School zone:* A space in any highway, road or street lawfully designated for the safety of persons going to and returning from public, private or parochial schools.

*Semi-tractor trailer:* Any semi-tractor, tractor trailer combination, or trailer unit weighing over thirteen thousand (13,000) pounds used for hauling commercial goods or personal property.

*Service car:* A motor vehicle other than a motor bus, offered for or engaged in carrying passengers for hire over a designated route and for a fixed fare.

*Sidewalk:* That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use of pedestrians.

*Signs:* A lettered board of metal, plastic or other materials, regardless of type of material it is made of, placed in a public place to give notice.

*Skateboard:* A single platform mounted on wheels which is designed to be propelled solely by human or wind power and which has no mechanism or other device with which to steer or to control the movement or direction or velocity of the platform.

*Solid tires:* Tires of rubber or other resilient materials, other than pneumatic tires

*Speed limit:* Maximum speed as prescribed by ordinance within a zone determined and indicated with numeral signs or marking designating such speeds, travel in excess of which is unlawful under this chapter.

*Stand or standing:* The halting of a vehicle, whether occupied or not, otherwise than for the purpose of and while actually engaged in receiving or discharging passengers.

*Stop:* When required, complete cessation from movement.

*Stop or stopping:* When prohibited, any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic control sign or signal.

*Street highway:* The entire width between the lines of every way publicly maintained when any part thereof is open to the uses of the public for purposes of vehicular travel.

*State highway:* A highway maintained by the state as a part of the state highway system.

*Taxicab:* A motor vehicle other than a motor bus or service car offered for or engaged in carrying passengers for hire.

*Through highway:* Every highway, or portion thereof, on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield right-of-way to vehicles on such through highway in obedience to a stop sign erected as provided in this chapter.

*Tow truck:* Vehicle, or piece or equipment employed in recovering or removing wrecks, especially a truck with a hoist and towing apparatus used in towing disabled or wrecked vehicles.

*Tractor:* Any motor vehicle designed primarily for agricultural use or used as a traveling power plant or for drawing other vehicles or farm or road building implements and having no provision for carrying loads immediately.

*Traffic:* Pedestrians, ridden or herded animals, vehicles, streetcars and other conveyances either singly or together while using any highway for purposes of travel.

*Traffic control signal:* Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and to proceed.

*Traffic confusion:* The act of creating or causing to be created traffic disorder, tumult and perplexity, on the part of other traffic, and when mobility of traffic is considered hazardous.

*Traffic division:* The traffic division of the police department of the city, or in the event a traffic division is not established, then said term whenever used herein shall be deemed to refer to the police department of the city.

*Trailer:* Any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

*Vehicle:* Every device in, upon or by which any person or property is or may be transported or drawn upon a highway, excepting motorized bicycles, motorized skateboards, motorized scooters and devices

*Vend* or *vending*: To peddle, sell or display for sale or exhibit any merchandise or materials, which act will create traffic confusion and in the opinion of the authorities having jurisdiction, the same constitutes a hazard.

(Ord. No. 222, § 3(300.010), 1-8-80; Ord. No. 389, § 1, 10-6-87; Ord. No. 570, § 1, 6-20-95; Ord. No. 833, §§ 1—3, 9-21-04; Ord. No. 876, §§ 1, 2, 1-3-06)

Sec. 20-5. - Violation a misdemeanor.

It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this chapter, except that a judgment establishing that an individual has violated the provisions of this chapter shall not be deemed to be a conviction for a misdemeanor within the meaning of Section 556.040 R.S.Mo. A person violating this chapter shall be punished as provided in section 1-13 of this Code, except as otherwise provided in this chapter.

(Ord. No. 222, § 3(300.076), 1-8-80)

Sec. 20-6. - Obedience to police and fire department officials.

No person shall willfully fail or refuse to comply with any lawful order or direction of a police officer or fire department official.

(Ord. No. 222, § 3(300.080), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.080.

Sec. 20-7. - Application of chapter to persons propelling push carts or riding animals.

Every person propelling any push cart or riding an animal upon a roadway, and every person driving any animal-drawn vehicle, shall be subject to the provisions of this chapter applicable to the driver of any vehicle, except those provisions of this chapter which by their very nature can have no application.

(Ord. No. 222, § 3(300.085), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.085.

Sec. 20-8. - Application of chapter to public employees.

The provisions of this chapter shall apply to the driver of any vehicle owned by or used in the service of the United States government, this state, county, or city, and it shall be unlawful for any said driver to violate any of the provisions of this chapter, except as otherwise permitted in this chapter.

(Ord. No. 222, § 3(300.095), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.095.

Sec. 20-9. - Fire equipment to obey regulations.

All fire department vehicles returning from fires of false alarms, or when on other nonemergency runs, shall obey all traffic regulations.

(Ord. No. 222, § 3(300.126), 1-8-80)

Sec. 20-10. - Use of coasters, roller skates and similar devices restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to the pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by ordinance of the city.

(Ord. No. 222, § 3(300.090), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.090.

Sec. 20-11. - Special provisions for authorized emergency vehicles.

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.
- (b) The driver of an authorized emergency vehicle may:
  - (1) Park or stand, irrespective of the provisions of this chapter;
  - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
  - (3) Exceed the maximum speed limits so long as he does not endanger life or property;
  - (4) Disregard regulations governing direction of movement of turning into specified directions.
- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when the driver of any said vehicle while in motion sounds audible signal by bell, siren, or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of such vehicle.
- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others.

(Ord. No. 222, § 3(300.100), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.105.

Sec. 20-12. - Operation of vehicles on approach of authorized emergency vehicles.

- (a) Upon the immediate approach of an authorized emergency vehicle making use of audible and visual signals meeting the requirements of the laws of this state, or of a police vehicle properly and lawfully making use of an audible signal only:
  - (1) The driver of every other vehicle shall yield to the right-of-way and shall immediately drive to a position parallel to, and as close as possible to, the right-hand edge or curb of the roadway clear of any intersection and shall stop and remain in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.
  - (2) Upon the approach of an authorized emergency vehicle as above stated, the motorman of every streetcar shall immediately stop such car clear of any intersection and keep it in such position until the authorized emergency vehicle has passed, except when otherwise directed by a police officer.

(b)

This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway.

(Ord. No. 222, § 3(300.105), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.105.

Sec. 20-13. - When police may remove vehicle.

- (a) Members of the police department are authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety, or to a garage designated or maintained by the police department, or otherwise maintained by the city under the circumstances hereinafter enumerated:
  - (1) When any vehicle is left unattended upon any bridge, viaduct, or causeway, or in any tube or tunnel where such vehicle constitutes an obstruction to traffic;
  - (2) When a vehicle upon a highway is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide its custody or removal;
  - (3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic.
- (b) Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefor and of the place to which such vehicle has been removed. In the event any such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.
- (c) Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in the event the officer shall immediately send or cause to be sent a written report of such removal by mail to the state department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal, and the name of the garage or place where the vehicle is stored.

(Ord. No. 222, § 3(300.595), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.595.

Sec. 20-14. - Presumptions from illegally parked vehicle.

In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or ordinance, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point, where, and for the time during which, such violation occurred.

(Ord. No. 222, § 3(300.625), 1-8-80)

Secs. 20-15—20-30. - Reserved.

ARTICLE II. - ADMINISTRATION AND ENFORCEMENT

## DIVISION 1. - GENERALLY

### Sec. 20-31. - Enforcement authority.

- (a) It shall be the duty of the authorized law enforcement agency or such officers as are duly and lawfully assigned by the authorized law enforcement agency to enforce all the traffic laws of the city and all of the state vehicle laws applicable to the city.
- (b) The authorized law enforcement agency and its officers shall enforce all traffic ordinances in this city, and the state highway patrol shall have authority to make arrests for any violations of this chapter.
- (c) Officers of the authorized law enforcement agency or such officers as are fully and lawfully assigned by the authorized law enforcement agency are hereby authorized to direct all traffic by voice, hand or signal in conformance with the traffic laws; provided that in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, such officers of the authorized law enforcement agency may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

(Ord. No. 222, § 3(300.017), 1-8-80)

### Sec. 20-32. - City traffic engineer.

- (a) The office of city traffic engineer is established. The city engineer, or other designated city official, shall serve as city traffic engineer in addition to his other functions, and shall exercise the powers and duties with respect to traffic as provided in this chapter.
- (b) The city traffic engineer shall determine the installation and proper timing and maintenance of traffic control devices, conduct engineering analyses of traffic accidents and devise remedial measures, conduct engineering investigation of traffic conditions, plan the operation of traffic on the streets and highways of the city, and cooperate with other city officials in the development of ways and means to improve traffic conditions, and carry out the additional powers and duties imposed by ordinances of the city.

(Ord. No. 222, § 3(300.060), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.060.

### Sec. 20-33. - Forms and notices of arrest or appearance.

The authorized law enforcement agency shall provide to the city, in triplicate, a suitable serially numbered form for notifying violators to appear and answer to charges of violating traffic laws and ordinances. The traffic violations bureau shall each month report the disposition of all traffic citations issued. For this purpose, the traffic violations bureau shall have access to the necessary records of the municipal court of the city. These reports shall be public records.

(Ord. No. 222, § 3(300.610), 1-8-80)

### Sec. 20-34. - Emergency and experimental regulations.

- (a) The chief of police, by and with the approval of the city traffic engineer, is hereby empowered to make regulations necessary to make effective the provisions of the traffic ordinances of the city and to make and enforce temporary or experimental regulations to cover emergencies or special conditions. No such temporary or experimental regulation shall remain in effect for more than ninety (90) days.
- (b) The city traffic engineer may test traffic control devices under actual conditions of traffic.

(Ord. No. 222, § 3(300.065), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.065.

Sec. 20-35. - Traffic commission.

- (a) There is hereby established the traffic commission, which shall consist of a representative from the city police department, the director of public works, the city attorney, and a member of the city council, selected by the city council from among its members, who shall be nonvoting ex officio members of the commission, except that the director of public works shall vote if necessary to break a tie vote of the commission, and seven (7) citizen residents who shall be registered voters of the city. The commission shall elect from its citizen members a chairman, a vice chairman, and a secretary at its first meeting after June 1 or when a vacancy in any of the offices occurs. No person can hold more than one office at the same time. The chairman's, vice chairman's, and secretary's terms of office shall be for one (1) year with eligibility for re-election. There shall be one (1) citizen member from each of the city's wards, and the remaining members may be representatives of the city at large. The mayor shall, with the approval of the city council, appoint citizen members on June 1 of each year or as soon as possible thereafter, upon the expiration of their term of office, which shall be for a term of two (2) years. Any vacancy in the traffic commission shall be filled by appointment and approval in like manner for the unexpired portion of that term. All members shall continue to serve until their successors have been appointed and qualified. The traffic commission shall hold regular business meetings once each calendar quarter at a date and time established by the chairman with the consent and agreement of the members and a majority of the commission shall constitute a quorum for the transaction of business. The commission shall establish rules and procedures for the conduct of meetings. The commission may hold additional meetings from time to time as it deems necessary at the call of the chairman, vice chairman, or secretary and upon at least seven (7) days notice except in the case of emergencies. Any citizen member who during his term of office shall become an elected or appointed official of the city shall forfeit his office as member of the traffic commission.
- (b) Any member of the traffic commission may be removed, for cause, at the discretion of the mayor, with the majority approval of the city council.
- (c) It shall be the duty of the traffic commission to coordinate traffic activities, to supervise the preparation and publication of traffic reports, to receive complaints having to do with traffic matters, and to recommend to the city council and to the director of public works, and other city officials ways and means for improving traffic conditions and the administration and enforcement of traffic regulations.

(Ord. No. 919, § 1, 10-2-2007; Ord. No. 999, § 1, 5-18-10)

**Editor's note**— Ord. No. 919, § 1, adopted Oct. 2, 2007, repealed § 20-35, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 20-35 pertained to traffic commission and derived from Ord. No. 222, § 2(300.070, 300.071), adopted Jan. 8, 1980.

**State Law reference**— Traffic commission generally, RSMo. § 300.070.

Sec. 20-36. - Authority of police and fire department officials.

- (a) It shall be the duty of the officers of the police department, or such officers as are assigned by the chief of police, to enforce all street traffic laws of the city and all of the state vehicle laws applicable to street traffic in the city.
- (b) Officers of the police department, or such officers as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand, or signal in conformance with traffic laws; provided that, in the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians, officers of

the police department may direct traffic as conditions may require notwithstanding the provisions of the traffic laws.

- (c) Officers of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.

(Ord. No. 222, § 3(300.075), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.075.

Sec. 20-37. - Drivers' files to be maintained.

The authorized law enforcement agency shall maintain a suitable record of all traffic accidents and arrests in the city.

(Ord. No. 222, § 3(300.745) 1-8-80)

Sec. 20-38. - Reports.

The authorized law enforcement agency shall furnish the city with a copy of the daily activity reports of the officers assigned to the city and shall furnish to the city a monthly summary of the criminal activities with the city.

(Ord. No. 222, § 3(300.750), 1-8-80)

Secs. 20-39—20-50. - Reserved.

DIVISION 2. - TRAFFIC DIVISION<sup>[2]</sup>

*Footnotes:*

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**Cross reference**— *Police generally, Ch. 17.*

Sec. 20-51. - Established.

There is established in the police department a traffic division to be under the control of an officer of police appointed by and directly responsible to the chief of police.

(Ord. No. 222, § 3(300.015), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.015.

Sec. 20-52. - General duty.

The traffic division, with such aid as may be rendered by other members of the police department, shall enforce the street traffic regulations of the city and all of the state vehicle laws applicable to street traffic violations, investigate accidents and cooperate with the city traffic engineer and other officers of the city in the administration of the traffic laws and in developing ways and means to improve traffic conditions, and carry out those duties specially imposed upon the division by this chapter and the traffic ordinances of the city.

(Ord. No. 222, § 3(300.020), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.020.

Sec. 20-53. - Records of traffic violations.

- (a) The police department or the traffic division, thereof shall keep a record of all violations of the traffic ordinances of the city or of the state vehicle laws of which any person has been charged, together with a record of the final disposition of all such alleged offenses. Such record shall be so maintained as to show all types of violations during at least a five-year period.
  - (b) All forms for records of violations and notices of violations shall be serially numbered. For each month and year a written record shall be kept available to the public showing the disposal of all such forms.
  - (c) All such records and reports shall be public records.
- (Ord. No. 222, § 3(300.025), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.025.

Sec. 20-54. - Accident investigations.

It shall be the duty of the traffic division, assisted by other police officers of the department, to investigate traffic accidents, to arrest and to assist in the prosecution of those persons charged with violations of law causing or contributing to such accidents.

(Ord. No. 222, § 3(300.030), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.030.

Sec. 20-55. - Accident studies.

Whenever the accidents at any particular location become numerous, the traffic division shall cooperate with the city traffic engineer in conducting studies of such accidents and determining remedial measures.

(Ord. No. 222, § 3(300.035), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.035.

Sec. 20-56. - Records of accident reports.

The traffic division shall maintain a suitable system of filing traffic accident reports. Accident reports or cards referring to them shall be filed alphabetically by location. Such reports shall be available for the use and information of the city traffic engineer, the city clerk, traffic commission, and other city officers.

(Ord. No. 222, § 3(300.040), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.040.

Sec. 20-57. - Maintenance of drivers' files.

The police department, or the traffic division thereof, shall maintain a suitable record of all traffic accidents, warnings, arrests, convictions, and complaints reported for each driver, which shall be filed alphabetically under the name of the driver concerned.

(Ord. No. 222, § 3(300.045), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.045.

Sec. 20-58. - Annual traffic safety report.

The traffic division shall annually prepare a traffic report which shall be filed with the mayor. Such report shall contain information on traffic matters in the city as follows:

- (1) The number of traffic accidents, the number of persons killed, the number of persons injured, and other pertinent traffic accident data;
- (2) The number of traffic accidents investigated and other pertinent data on the safety activities of the police;
- (3) The plans and recommendations of the division for future traffic safety activities.

(Ord. No. 222, § 3(300.050), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.050.

Sec. 20-59. - Duty to designate method of identifying funeral processions.

The traffic division shall designate a type of pennant, or other identifying insignia, to be displayed upon, or other method to be employed to identify, the vehicles in funeral processions.

(Ord. No. 222, § 3(300.055), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.055.

Secs. 20-60—20-70. - Reserved.

DIVISION 3. - TRAFFIC VIOLATIONS BUREAU<sup>[3]</sup>

*Footnotes:*

— (3) —

**Editor's note**—Section 1 of Ord. No. 639, adopted Oct. 6, 1998, deleted Div. 3 in its entirety and substituted similar provisions to read as herein set out. Former Div. 3 derived from Ord. No. 222, adopted Jan. 8, 1980.

Sec. 20-71. - Establishment of traffic violations bureau.

The municipal judge shall establish a traffic violations bureau, which traffic violations bureau shall consist of the municipal judge and the clerk of the city court. The traffic violations bureau shall operate under the supervision of the circuit court and the municipal judge and shall be operated in accordance with the rules of the Supreme Court of the State of Missouri and the rules of the circuit court.

(Ord. No. 639, § 1, 10-6-98)

Sec. 20-72. - Duties of traffic violations bureau.

The following duties are hereby imposed upon the traffic violations bureau in reference to traffic offenses:

- (1) It shall accept designated fines as established by the municipal judge pursuant to section 20-73 of this chapter, issue receipts, and represent in court such violators as are permitted and desire to plead guilty, waive court appearance, and give power of attorney.
- (2) It shall receive and issue receipts for cash bail from the persons who must or wish to be heard in court, enter the time of their appearance on the court docket, and notify the arresting officer and witnesses, if any, to be present.
- (3)

It shall keep records and submit summarized monthly reports to the municipal court of all notices issued and arrests made for violations of the traffic laws and ordinances in the city and of all the fines collected by the traffic violations bureau or the court, and of the final disposition or present status of every case of violation or the provisions of said laws and ordinances. Such records shall be so maintained as to show all types of violations and the totals of each. Said records shall be public records.

- (4) It shall follow such procedures as may be prescribed by the traffic ordinances of the city or as may be required by any laws of this state.

(Ord. No. 639, § 1, 10-6-98)

**State Law reference**— Similar provisions, RSMo. §§ 300.560, 300.565, 300.570.

Sec. 20-73. - Designation of fines and offenses.

The municipal judge shall designate the various offenses for which payment of fines and costs may be accepted by the traffic violations bureau. The municipal judge, by order to be prominently posted at the place where the fines are to be paid, shall specify by suitable schedules the amounts of fines and costs to be imposed for first and subsequent offenses, designating each offense specifically in the schedules, and shall further specify what offenses shall require appearances before the city court.

(Ord. No. 639, § 1, 10-6-98)

Sec. 20-74. - When person charged may elect to appear at bureau or before municipal judge.

- (a) Any person charged with the offense for which payment of a fine may be made to the traffic violations bureau shall have the option of paying such fine within the time specified in the notice of arrest at the traffic violations bureau upon entering a plea of guilty and upon waiving appearance in court; or may have the option of depositing required lawful bail with the traffic violations bureau, and upon a plea of not guilty shall be entitled to a trial as authorized by law.
- (b) The payment of a fine to the traffic violations bureau shall be deemed as acknowledgment of conviction of the alleged offense, and the traffic violations bureau, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof.

(Ord. No. 639, § 1, 10-6-98)

**Cross reference**— Municipal court, Ch. 12.

**State Law reference**— Similar provisions, RSMo. § 300.555.

Secs. 20-75—20-85. - Reserved.

DIVISION 4. - ARREST PROCEDURES

Sec. 20-86. - Forms and records of traffic citations and arrests.

- (a) The municipal court shall provide books containing uniform traffic tickets as prescribed by Supreme Court Rule No. 37.46. Said books shall include serially numbered sets of citations in quadruplicate in the form prescribed by supreme court rule.
- (b) The municipal court shall issue such books to the chief of police or his duly authorized agent and shall maintain a record of every book so issued and shall require a written receipt for every such book.

(c)

The chief of police shall be responsible for the issuance of such books to individual members of the police department. The chief of police shall require a written receipt for every book so issued and shall maintain a record of every such book and each set of citations outlined therein.

(Ord. No. 222, § 3(300.575), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.575.

Sec. 20-87. - Procedure of police officers.

Except when authorized or directed under state law to immediately take a person before the judge of the municipal court for the violation of any traffic laws, a police officer who halts a person for such violation other than for the purpose of giving him a warning or warning notice and does not take such person into custody under arrest shall issue to him a uniform traffic ticket which shall be proceeded upon in accordance with Supreme Court Rule No. 37.

(Ord. No. 222, § 3(300.580), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.580.

Sec. 20-88. - When complaint to be filed and warrant to be issued generally.

In the event any person fails to comply with a notice given to such person or attached to a vehicle or fails to make appearance pursuant to a summons directing an appearance in the municipal court or the traffic violations bureau, or if any person fails or refuses to deposit bail as required and within the time permitted by ordinance, the judge of the municipal court or the city attorney shall forthwith have a complaint entered against such person and secure and issue a warrant for his arrest.

(Ord. No. 222, § 3(300.630), 1-8-80)

Sec. 20-89. - Parking violations—Uniform traffic ticket to be issued.

Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by ordinance of the city or by state law, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a uniform traffic ticket for the driver to answer to the charge against him within five (5) days during the hours and at a place specified in the traffic ticket.

(Ord. No. 222, § 3(300.585, 300.615), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.585.

Sec. 20-90. - Same—Warning of arrest sent upon failure to appear.

If a violator of the restrictions on stopping, standing or parking under the traffic laws or ordinances does not appear in response to a uniform traffic ticket affixed to such motor vehicle within a period of five (5) days, the traffic violations bureau shall send to the owner of the motor vehicle to which the traffic ticket was affixed a letter informing him of the violations and warning him that in the event such letter is disregarded for a period of five (5) days, a warrant of arrest will be issued and a complaint shall be filed.

(Ord. No. 222, § 3(300.590, 300.620), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.590.

Secs. 20-91—20-105. - Reserved.

## ARTICLE III. - ACCIDENTS

### Sec. 20-106. - Immediate notice of accident.

The driver of a vehicle involved in an accident resulting in injury or death of any person or total property damage to an apparent extent of five hundred dollars (\$500.00) or more to one person shall immediately by the quickest means of communication give notice of such accident to the police department if such accident occurs within the city.

(Ord. No. 222, § 3(300.110), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.110.

### Sec. 20-107. - Written report of accident.

The driver of a vehicle which is in any manner involved in an accident resulting in bodily injury to or death of any person, or total property damage to an apparent extent of five hundred dollars (\$500.00) or more to one person, shall, within five (5) days after such accident, forward a written report of such accident to the police department. The provisions of this section shall not be applicable when the accident has been investigated at the scene by a police officer while such driver was present thereat.

(Ord. No. 222, § 3(300.115), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.115.

### Sec. 20-108. - Reports when driver unable to report.

- (a) Whenever the driver of a vehicle is physically incapable of giving immediate notice of an accident as required in Section 20-106 of this Code, and there was another occupant in the vehicle at the time of the accident capable of doing so, such occupant shall give, or cause to be given, the notice not given by the driver.
- (b) Whenever the driver is physically incapable of making a written report of an accident as required in Section 20-107 of this Code and such driver is not the owner of the vehicle, then the owner of the vehicle involved in such accident shall within five (5) days after the accident make such report not made by the driver.

(Ord. No. 222, § 3(300.120), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.120.

### Sec. 20-109. - Public inspection of reports relating to accidents.

- (a) All written reports made by persons involved in accidents or by garages shall be without prejudice to the individual so reporting and shall be for the confidential use of the police department or other governmental agencies having use for the records for accident prevention purposes, except that the police department or other governmental agency may disclose the identity of a person involved in an accident when such identity is not otherwise known or when such person denies his presence at such accident.
- (b) No written reports forwarded under the provisions of this section shall be used as evidence in any trial, civil or criminal, arising out of an accident except that the police department shall furnish upon demand of any party to such trial, or upon demand of any court, a certificate showing that a specified

accident report has or has not been made to the department in compliance with law, and, if such report has been made, the date, time and location of the accident, the names and addresses of the drivers, the owners of the vehicles involved, and the investigating officers.

(Ord. No. 222, § 3(300.125), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.125.

Sec. 20-110. - Traffic accident studies.

Whenever the accidents at any particular location become numerous, the authorized law enforcement agency shall be asked to cooperate with the city traffic commission in conducting studies of such accidents and determining remedial measures.

(Ord. No. 222, § 3(300.735), 1-8-80)

Sec. 20-111. - Traffic accident reports.

The authorized law enforcement agency shall maintain a suitable system of filing traffic accident reports. A copy of all accident reports shall be made available to the city clerk and shall be available for the use and information of the traffic commission and other city offices which require their use.

(Ord. No. 222, § 3(300.740), 1-8-80)

Sec. 20-112. - Leaving the scene of a motor vehicle accident.

- (a) It shall be unlawful for any person, while operating or driving a vehicle on the streets or roads of the city or on any publicly or privately owned parking lot or parking facility generally open for use by the public, to leave the place of injury caused to a person or damage caused to property which involved the vehicle he/she was operating or driving when the person knew that an injury had been caused to a person or damage has been caused to property, due to his/her culpability or to accident, without stopping and giving his/her name, residence (including city and street number), motor vehicle identification number and chauffeur's or registered operator's number (if any) to the injured party or to a police officer, or if no police officer is in the vicinity, then to the nearest police station or judicial officer.
- (b) For the purposes of this section, all peace officers shall have jurisdiction, when invited by an injured person, to enter the premises of any privately owned parking lot or parking facility for the purpose of investigating an accident and performing all necessary duties regarding such accident.

(Ord. No. 314, § 1, 6-5-84)

Secs. 20-113—20-130. - Reserved.

ARTICLE IV. - TRAFFIC CONTROL DEVICES, SIGNALS, ETC.

Sec. 20-131. - Authority to install.

The city traffic engineer shall place and maintain traffic control signs, signals and devices when and as required under the traffic ordinances of the city to make effective the provisions of said ordinances according to the description in Schedule I of this chapter or under state law or to guide or warn traffic.

(Ord. No. 222, § 3(300.130), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.130.

Sec. 20-132 - State, county and city may place signs

The state highway commission on state highways or the highway engineer of the county on arterial roads and the city traffic engineer in the city on roads other than state highways and county arterial roads, shall be authorized to paint, mark or erect any official signs, markings, signals or traffic-control devices, subject to the provisions of the city traffic ordinances, on the surface, suspended over with legal clearance, or by the side of the traveled portions of said highways, public roads, streets or alleys, as a warning to all vehicle operators and pedestrians.

(Ord. No. 222, § 3(300.131), 1-8-80)

Sec. 20-133. - Manual and specifications for traffic control devices.

All traffic control signs, signals and devices shall conform to the manual and specifications approved by the state highway commission or resolution adopted by the city council. All signs or signals required hereunder for a particular purpose shall so far as practicable be uniform as to type and location throughout the city. All traffic control devices so erected and not inconsistent with the provisions of this chapter shall be official traffic control devices.

(Ord. No. 222, § 3(300.135), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.135.

Sec. 20-134. - Obedience to traffic control devices.

The driver of any vehicle shall obey the instructions of any official traffic control device applicable thereto placed in accordance with the provisions of this chapter, unless otherwise directed by a traffic or police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this chapter.

(Ord. No. 222, § 3(300.140), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.140.

Sec. 20-135. - When official traffic control devices required for enforcement purposes.

No provision of this chapter for which official traffic control devices are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic control devices are required, such section shall be effective even though no devices are erected or in place.

(Ord. No. 222, § 3(300.145), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.145.

Sec. 20-136. - Official traffic control devices; presumption of legality.

- (a) Whenever official traffic control devices are placed in position approximately conforming to the requirements of this chapter, such device shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.
- (b) Any official traffic control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence.

(Ord. No. 222, § 3(300.150), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.150.

Sec. 20-137. - Traffic control signal legend.

Whenever traffic controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication:

- a. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the same such signal is exhibited;
- b. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;
- c. Unless otherwise directed by a pedestrian control signal as provided in section 20-138, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication:

- a. Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection;
- b. Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in Section 20-138 of this Code, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication:

- a. Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown except as provided in b. below;
- b. The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the State Highway Commission with reference to an intersection involving a state highway, and local authorities with reference to an intersection involving other highways under their jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require, said prohibition shall be effective when a sign is erected at such intersection giving notice thereof;
- c. Unless otherwise directed by a pedestrian control signal as provided in Section 20-138 of this Code, pedestrians facing a steady red signal alone shall not enter the roadway.

- (4) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.
- (5) All lenses shall be arranged in a straight and preferably vertical line, and shall be in the following order: (In vertical signals, Position No. One shall be at the top and in horizontal signals, Position No. One shall be at the left.)

<i>Position</i>	Signal Indication
No. One (1)	Red
No. Two (2)	Yellow (Amber)
No. Three (3)	Green
No. Four (4)	Straight Through Arrow
No. Five (5)	Left Turn Arrow
No. Six (6)	Right Turn Arrow
No. Seven (7)	Don't Walk (or Wait)
No. Eight (8)	Walk

- (6) All special arrows shall be green on an opaque background.

(Ord. No. 222, § 3(300.155), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.155.

Sec. 20-138. - Pedestrian control signals.

Whenever special pedestrian control signals exhibiting the words "Walk" or "Don't Walk" are in place such signals shall indicate as follows:

- (1) "Walk", pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles;
- (2) "Wait" or "Don't Walk", no pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the walk signal shall proceed to a sidewalk or safety zone while the wait signal is showing.

(Ord. No. 222, § 3(300.160), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.160.

Sec. 20-139. - Flashing signals.

- (a) Whenever an illuminated flashing red or yellow signal is used in a traffic sign or signal it shall require obedience by vehicular traffic as follows:
- (1) Flashing red (stop signal), when a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an intersection or at a limit line when marked, or if none, then before entering the intersection, and the right to proceed shall be subject to the rules applicable after marking a stop at a stop sign;
  - (2) Flashing yellow (caution signal), when a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.
- (b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in Section 20-251 of this Code.
- (Ord. No. 222, § 3(300.165), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.165.

Sec. 20-140. - Lane direction control signals.

When lane direction control signals are placed over the individual lanes of a street or highway, vehicular traffic may travel in any lane over which a green signal is shown, but shall not enter or travel in any lane over which a red signal is shown.

(Ord. No. 222, § 3(300.170), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.170.

Sec. 20-141. - Display of unauthorized signs, signals or markings.

- (a) No person shall place, maintain or display upon or in view of any highway an unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic control device or any railroad sign or signal.
- (b) No person shall place or maintain or cause to be placed or maintained nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising.
- (c) This action shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (d) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the authority having jurisdiction over the highway is hereby empowered to remove the same or cause it to be removed without notice.

(Ord. No. 222, § 3(300.175), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.175.

Sec. 20-142. - Interference with official traffic control devices or railroad signs or signals.

No person shall, without lawful authority, attempt to or in fact alter, deface, injure, knock down or remove any official traffic control device or any railroad sign or signal or any inscription, shield or insignia thereon, or any other part thereof.

(Ord. No. 222, § 3(300.180), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.180.

Sec. 20-143. - Authority to establish play streets.

The city traffic engineer, at the direction of the city council, shall have authority with the approval of the majority of the residents of the street to declare any street or part thereof a play street to place appropriate signs or devices in the roadway indicating and helping to protect the same.

(Ord. No. 222, § 3(300.185), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.185.

Sec. 20-144. - Play streets.

Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any said driver shall exercise the greatest care in driving upon any such street or portion thereof.

(Ord. No. 222, § 3(300.190), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.190.

Sec. 20-145. - City traffic engineer to designate crosswalks and establish safety zones.

The city traffic engineer, at the direction of the city council, is hereby authorized:

- (1) To designate and maintain, by appropriate devices, marks, or lines upon the surface of the roadway, crosswalks at intersections where in his opinion there is particular danger to pedestrians crossing the roadway, and at such other places as he may deem necessary;
- (2) To establish safety zones of such kind and character and at such places as he may deem necessary for the protection of pedestrians.

(Ord. No. 222, § 3(300.195), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.195.

Sec. 20-146. - Traffic lanes.

- (a) The city traffic engineer, at the direction of the city council, is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment is necessary.
- (b) Where such traffic lanes have been marked, it shall be unlawful for the operator of any vehicle to fail or refuse to keep such lane except when lawfully passing another vehicle or preparatory to making a lawful turning movement.

(Ord. No. 222, § 3(300.200), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.200.

Secs. 20-147—20-160. - Reserved.

ARTICLE V. - SPEED

Sec. 20-161. - Generally.

Every person operating a motor vehicle on the highways, public roads, streets or alleys of the city shall operate or drive the same in a careful and prudent manner, and in the exercise of the highest degree of care and at a rate of speed so as not to endanger the property of another or the life or limb of any person, taking into consideration the time of day, the amount of vehicular and pedestrian traffic, the condition of the street or highway, the atmospheric conditions and the location with reference to intersecting streets or highways, curves, residences or schools.

(Ord. No. 222, § 3(300.201), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 304.010(1).

Sec. 20-162. - Speed limits on state highways.

It is hereby determined that no person shall operate a motor vehicle upon the portions of state highways described in Schedule II of this chapter in excess of the speed limits indicated for each portion. The city council may from time to time, by ordinance, limit speed on all portions of state highways as engineering investigations show the necessity for such limitations with the concurrence of the state highway commission.

(Ord. No. 222, § 3(300.202), 1-8-80)

Sec. 20-163. - General speed limit on county arterial roads and city streets.

No person shall drive or operate a motor vehicle (except authorized emergency vehicles on emergency runs) on any public highway, road, street, or alley in the city at a rate of speed in excess of twenty-five (25) miles per hour, except on state highways or county arterial roads or in zones otherwise provided for by ordinance and on through streets.

(Ord. No. 222, § 3(300.203), 1-8-80)

Sec. 20-164. - Speed limit on through streets.

No person shall operate or drive a motor vehicle (except authorized emergency vehicles on emergency runs) on any through highway, road or street described in Schedule V of this chapter at a rate of speed in excess of thirty-five (35) miles per hour or as otherwise indicated in Schedule III of this chapter.

(Ord. No. 222, § 3(300.204), 1-8-80)

Sec. 20-165. - Special speed limits on county arterial roads and city streets.

It is hereby determined that in the public interest and safety, no person shall operate a motor vehicle (except authorized emergency vehicles on emergency runs) in the city, upon those portions of the highways, roads or streets, which are set forth and described in Schedule III of the chapter at a rate of speed in excess of that speed limit set for such portions of the highways, roads or streets by said schedule.

(Ord. No. 222, § 3(300.205), 1-8-80; Ord. No. 255, § 1, 6-2-81)

Sec. 20-166. - Special speed limits in city parks.

No person shall operate a motor vehicle on any vehicular roadway in a park, as that term is defined in Section 14-37 of this Code, at a rate of speed in excess of ten (10) miles per hour.

(Ord. No. 222, § 3(300.205A), 1-8-80; Ord. No. 255, § 3, 6-2-81)

Sec. 20-167. - Impeding traffic, advertising vehicles.

No person shall operate or drive a motor vehicle used primarily for advertising purposes or display posters or placards or any article for the inspection of the public on such vehicles or as a part thereof, at a rate of speed less than twenty (20) miles per hour, conditions permitting, and the operator of such vehicle shall move the same continuously and shall not stop the same except when ordered by any police officer or in obedience to traffic signals or signs.

(Ord. No. 222, § 3(300.206), 1-8-80)

**Cross reference**— Using vehicle to display advertising, § 11-88.

Sec. 20-168. - Impeding traffic; slow driving.

It is unlawful for any person to drive at such a slow speed or in such position on the roadway so as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation, or because upon a grade or when the vehicle is a truck or trailer necessarily or in compliance with law, proceeding at reduced speed.

(Ord. No. 222, § 3(300.207), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 304.011.

Sec. 20-169. - Speed limits to be posted with signs.

All portions of highways, roads and streets on which a speed limit has been established, shall be marked by signs erected at the beginning and end of such designated portions of highways, roads or streets.

(Ord. No. 222, § 3(300.208), 1-8-80)

Sec. 20-170. - State speed laws applicable.

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within the city, except that the city may by ordinance declare and determine upon the basis of engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof, but no city ordinance shall regulate the speed of vehicles upon controlled access highways of the state.

(Ord. No. 222, § 3(300.209), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.205.

Sec. 20-171. - Regulation of speed by traffic signals.

The city traffic engineer, at the direction of the city council, is authorized to regulate the timing of traffic signals so as to permit the movement of traffic in an orderly and safe manner at speeds slightly at variance from the speeds otherwise applicable within the district or at intersections and shall erect appropriate signs giving notice thereof.

(Ord. No. 222, § 3(300.210), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.210.

Sec. 20-172. - Advertising on vehicles.

- (a) It shall be unlawful for the operator of any motor vehicle to intentionally harass or alarm another person who is inside a motor vehicle by intentionally or knowingly:
- (1) Increasing or decreasing the speed of his or her motor vehicle;
  - (2) Changing lanes suddenly or without warning;
  - (3) Following another person's motor vehicle more closely than is reasonable and prudent under the totality of the circumstances;
  - (4) Impeding or obstructing the operation of another person's motor vehicle; or
  - (5) Operating his or her motor vehicle in a manner that endangers or would be likely to endanger any person or property.
- (b) Every person convicted of a violation of this Section 20-172 shall be punished by a fine of not less than one hundred dollars (\$100.00) but no more than one thousand dollars (\$1,000.00), or by detention in the county jail for not more than one (1) year, or by both such fine and imprisonment.
- (Ord. No. 664, § 1, 11-16-99; Ord. No. 896, § 1, 12-5-06)

Secs. 20-173—20-185. - Reserved.

#### ARTICLE VI. - OVERTAKING AND PASSING

Sec. 20-186. - No passing zones.

- (a) The city traffic commission is hereby authorized and directed to determine those portions of any highway, road or street where overtaking and passing or driving a vehicle to the left of a roadway would be especially hazardous and shall declare the same as a "no passing zone" in accordance with the following standards:

Roadway Design Speed (MPH)	Minimum Sight Distance (feet)	Minimum No Passing Zone (feet)
<u>20</u>	400	60
30	<u>500</u>	90
40	<u>600</u>	120
50	<u>800</u>	<u>150</u>
60	1,000	<u>180</u>

- (b) The section of roadway involved shall be held a "no passing zone" and the director of public works, under the direction of the city council, shall immediately mark the said "no passing zone" by painting a solid yellow line on the roadway surface just to the right of the center line of the said roadway. Thereafter, the director of public works, under the direction of the city council, shall, by appropriate

signs, indicate the beginning and end of the "no passing zone". When the aforesaid yellow painted line and signs are in place so as to be clearly visible, every driver of a vehicle who shall fail to comply with the directions thereof, shall be guilty of a misdemeanor.

- (c) The traffic commission shall keep a record of all such zones and the appropriate locations thereof and such records shall be public records and subject to public inspection.
- (d) In any prosecution for the violation of such "no passing" zones as herein provided, proof that the roadway was marked with a solid yellow line and signs posted at the beginning and end of such zones as herein provided shall constitute a prima facie presumption that such no passing zone was duly, properly and lawfully marked and designated as herein provided.
- (e) Any driver of a vehicle who shall overtake and pass another vehicle moving in the same direction within an intersection or within one hundred (100) feet of an intersection shall be guilty of a misdemeanor.

(Ord. No. 222, § 3(300.690), 1-8-80)

Sec. 20-187. - Passing of vehicles proceeding in the same direction.

- (a) The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:
  - (1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle;
  - (2) Except, when overtaking and passing on the right as permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal, and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.
- (b) The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:
  - (1) When the vehicle overtaken is making or about to make a left turn.
  - (2) Upon a highway, road or street with unobstructed pavement of sufficient width for two (2) or more lines of vehicles in each direction.
  - (3) Upon a one-way street.
  - (4) Upon any highway, road or street with unobstructed pavement of such width and clearly marked for four or more lanes of traffic.
  - (5) The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway.
  - (6) The provisions of this subsection shall not relieve a driver from the duty to drive as closely as practicable to the right hand edge of the roadway.
- (c) Except when a roadway has been divided into three traffic lanes, no vehicle shall be driven to the left side of the center line of a roadway or public road in overtaking and passing another vehicle proceeding in the same direction, unless such left side is clearly visible and is free of on-coming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.
- (d) No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

When approaching the crest of a grade or upon a curve of the highway where the drivers' view is obstructed within such distances as to create a hazard in the event that another vehicle might approach from the opposite direction.

- (2) When the view is obstructed upon approaching within one hundred (100) feet of any bridge, viaduct, tunnel, or when approaching within one hundred (100) feet of or at any intersection or railroad grade crossing.

(Ord. No. 222, § 3(300.695), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 304.016.

Secs. 20-188—20-205. - Reserved.

#### ARTICLE VII. - TURNING MOVEMENTS

Sec. 20-206. - Required position and method of turning at intersection.

The driver of a vehicle intending to turn at an intersection shall do so as follows:

- (1) Right turns: Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) Left turns on two-way roadways: At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left-turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) Left turns on other than two-road roadways: At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the lefthand lane lawfully available to traffic moving in such direction upon the roadway being entered.

(Ord. No. 222, § 3(300.215), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.215.

Sec. 20-207. - Authority to place and obedience to turning markers.

- (a) The city traffic engineer, at the direction of the city council, is authorized to place markers, buttons, or signs within or adjacent to intersections indicating the course to be travelled by vehicles turning at such intersections, and such course to be travelled as so indicated by conform to or be other than as prescribed by law or ordinance.
- (b) When authorized markers, buttons, or other indications are placed within an intersection indicating the course to be travelled by vehicle turning thereat, no driver of a vehicle shall disobey the directions of such indications.

(Ord. No. 222, § 3(300.220), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.220.

Sec. 20-208. - Authority to place restricted turn signs.

The city traffic engineer, at the direction of the city council, is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U-turn, and shall place proper signs at such intersections. The making of turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or they may be removed when such turns are permitted. All intersections and locations where the above said turns are restricted shall be set forth and described in Schedule IV of this chapter.

(Ord. No. 222, § 3(300.225), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.225.

Sec. 20-209. - Obedience to no-turn signs.

Whenever authorized signs are erected indicating that no right or left or U-turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(Ord. No. 222, § 3(300.230), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.230.

Sec. 20-210. - Limitations on turning around.

The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district and shall not upon any other street or turn a vehicle unless such movement can be made in safety and without interfering with other traffic.

(Ord. No. 222, § 3(300.235), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.235.

Sec. 20-211. - Procedure at grade separations.

At or near all highway, road or street grade separations, all traffic turning movements shall be made with a series of right turns, and there shall be no left turns at or near grade separations except, however, that left turns may be made at the grade separation intersections where so directed by signs and arrows.

(Ord. No. 222, § 3(300.252), 1-8-80)

Secs. 20-212—20-225. - Reserved.

#### ARTICLE VIII. - ONE-WAY STREETS, RESTRICTED LOCAL TRAFFIC STREETS AND ALLEYS

Sec. 20-226. - Authority to sign one-way streets, restricted local traffic streets and alleys.

Whenever any ordinance of the city designates any one-way street, restricted local traffic street or alley, the city traffic engineer, at the direction of the city council shall place and maintain signs giving notice thereof, and no such regulations shall be effective unless such signs are in place. Signs indicating restricted local traffic streets shall read "No Through Traffic" and shall be erected and maintained at both ends of the restricted local traffic street. Signs indicating the direction of lawful traffic movement shall be placed at every intersection where movement of traffic in the opposite direction is prohibited.

(Ord. No. 222, § 3(300.240), 1-8-80; Ord. No. 559, § 2, 2-21-95)

**State Law reference**— Similar provisions, RSMo. § 300.240.

Sec. 20-227. - Travel on one-way streets and alleys.

Upon those streets and parts of streets and in those alleys described and designated in Schedule XI of this chapter, vehicular traffic shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited.

(Ord. No. 222, § 3(300.245), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.245.

Sec. 20-228. - Authority to restrict direction of movement on streets during certain period.

- (a) The city traffic engineer, at the direction of the city council, is hereby authorized to determine and designate streets, parts of streets or specific lanes thereon upon which vehicular traffic shall proceed in one direction during one period and the opposite direction during another period of the day and shall place and maintain appropriate markings, signs, barriers or other devices to give notice thereof. The city traffic engineer may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of centerline of the roadway, at the direction of the city council.
- (b) It shall be unlawful for any person to operate any vehicle in violation of such markings, signs, barriers or other devices so placed in accordance with this section.

(Ord. No. 222, § 3(300.250), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.250.

Sec. 20-229. - Restricted local traffic streets.

Upon those streets and parts of streets described and designated in Schedule XIV of this chapter as restricted local traffic streets, no person or persons shall operate a motor vehicle in through travel, except for those person or persons making deliveries to or working at a property on restricted local traffic streets or those person or persons who are guests of those residing on restricted local traffic streets.

(Ord. No. 559, § 3, 2-21-95)

Secs. 20-230—20-240. - Reserved.

ARTICLE IX. - SPECIAL STOPS, YIELD INTERSECTIONS, ETC.

Sec. 20-241. - Through streets designated.

Those streets and parts of streets described in Schedule V of this chapter are declared to be through streets for the purposes of this article.

(Ord. No. 222, § 3(300.255), 1-8-80)

Sec. 20-242. - Signs required at through streets.

Whenever Schedule V of this chapter designates and describes a through street, it shall be the duty of the city traffic engineer to place and maintain a traffic sign, according to Schedule VI or on the basis of an engineering and traffic investigation at any intersection, a yield sign, according to Schedule VII of this chapter on each and every street intersection such through street unless traffic at any such intersection is controlled at all times by traffic control signals; provided, however, that at the intersection of two (2) such

through streets or at the intersection of a through street and a heavy traffic street not so designated, stop signs shall be erected at the approaches of either of said streets as may be determined by the city traffic engineer, at the direction of the city council, upon the basis of an engineering and traffic study.

(Ord. No. 222, § 3(300.260), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.260.

Sec. 20-243. - Other intersections where stop or yield required.

The city traffic engineer, at the direction of the city council, is hereby authorized to determine and designate intersections where particular hazard exists upon other than through streets and to determine whether vehicles shall stop at one or more entrances to any such intersection, in which event, he shall cause to be erected a stop sign at every such place where a stop is required, with the approval of the city council, or whether vehicles shall yield the right-of-way to vehicles on a different street at such intersection as prescribed in subsection 1 of section 300.280, in which event he shall cause to be erected a yield sign at every place where obedience thereto is required, at the direction of the city council.

(Ord. No. 222, § 3(300.265), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.265.

Sec. 20-244. - Stop and yield signs.

- (a) The driver of a vehicle approaching a yield sign if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection, or, in the event there is no crosswalk, at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.
- (b) Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop before entering the crosswalk on the near side of the intersection or, in the event there is no crosswalk, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection.
- (c) Stop signs at crosswalks shall be erected at the locations specified in Schedule XIII of this chapter.

(Ord. No. 222, § 3(300.270), 1-8-80; Ord. No. 270, § 1, 9-21-82)

**State Law reference**— Similar provisions, RSMo. § 300.270.

Sec. 20-245. - Stops for school bus.

- (a) The driver of a vehicle upon any public highway, road or street (including county, state and U.S. marked highways and roads designated part of the county arterial road system) in the city, upon meeting or overtaking from either direction any school bus which has stopped on the highway, road or street for the purpose of receiving or discharging any school children and whose driver has, in the manner prescribed by law, given the signal to stop, shall stop the vehicle before reaching such school bus and shall not proceed until such school bus resumes motion or until signalled by its driver to proceed.
- (b) Every bus used for the transportation of school children shall bear upon the front and rear thereon, a plainly visible sign containing the words "School Bus" in letters not less than eight inches in height. Each bus shall have lettered on the rear in plain and distinct type the following: "State Law: Stop while

bus is loading and unloading". Each school bus subject to the provisions of this section shall be equipped with a mechanical and electrical signalling device, which will display a signal plainly visible from the front and rear and indicating intention to stop.

- (c) No driver of a school bus shall take on or discharge passengers at any location upon a highway, road or street consisting of four (4) or more lanes of traffic, whether or not divided by a median or barrier, in such manner as to require the passengers to cross more than two lanes of traffic; nor shall he take on or discharge passengers while the vehicle is upon the highway, road or street proper unless the vehicle so stopped is plainly visible for at least three hundred (300) feet in each direction to drivers of other vehicles upon the highway, road or street and then only for such time as is actually necessary to take on and discharge passengers.
- (d) The driver of a vehicle upon a highway, road or street with separate roadways need not stop upon meeting or overtaking a school bus which is on a different roadway; which is proceeding in the opposite direction on a highway, road or street containing four or more lanes of traffic, or which is stopped in a loading zone constituting a part of, or adjacent to, a limited or controlled access highway at a point where pedestrians are not permitted to cross the roadway.
- (e) The driver of any school bus driving upon the highways, roads or streets of the city, after loading or unloading school children, should remain stopped if the bus is followed by three (3) or more vehicles, until such vehicles have been permitted to pass the school bus, if the conditions prevailing make it safe to do so.

(Ord. No. 222, § 3(300.271), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 304.050.

Sec. 20-246. - School stops.

At those street intersections or crosswalks lawfully designated as a "School Stop" in Schedule VIII of this chapter, signs shall be erected by the city traffic engineer at the direction of the city council. When such signs are placed facing traffic, every driver of a vehicle facing such sign shall bring his vehicle to a complete stop and yield the right-of-way to all children and other persons crossing thereat and shall not proceed until safe to do so.

(Ord. No. 222, § 3(300.272), 1-8-80)

Sec. 20-247. - Vehicle entering stop intersection.

Except when directed to proceed by a police officer or traffic control signal, every driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop as required by subsection (b) of Section 20-244 of this Code, and after having stopped shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on said highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(Ord. No. 222, § 3(300.275), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.275.

Sec. 20-248. - Vehicle entering yield intersection.

- (a) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and shall yield the right-of-way to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard

without stopping such collision shall be deemed prima facie evidence of his failure to yield right-of-way. The foregoing shall not relieve the drivers of other vehicles approaching the intersection at such distance as not to constitute an immediate hazard from the duty to drive with due care to avoid a collision.

- (b) The driver of a vehicle approaching a yield sign, if required for safety to stop, shall stop before entering the crosswalk on the near side of the intersection, or, in the event there is no crosswalk at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway.

(Ord. No. 222, § 3(300.280), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.280.

Sec. 20-249. - Emerging from alley, driveway or building.

The driver of a vehicle within a business or residence district emerging from an alley, driveway or building, shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across any alleyway or driveway, and shall yield the right-of-way to any pedestrian as may be necessary to avoid collision, and upon entering the roadway shall yield the right-of-way to all vehicles approaching on said roadway.

(Ord. No. 222, § 3(300.285), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.285.

Sec. 20-250. - Stop when traffic obstructed.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the other side of the intersection or crosswalk to accommodate the vehicle he is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic control signal indication to proceed.

(Ord. No. 222, § 3(300.290), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.290.

Sec. 20-251. - Obedience to signal indicating approach of train.

- (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within fifty (50) feet, but not less than fifteen (15) feet from the nearest rail of such railroad, and shall not proceed until he can do so safely. The foregoing requirements shall apply when:
  - (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train;
  - (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;
  - (3) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.
- (b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed.

(Ord. No. 222, § 3(300.295), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.295.

Sec. 20-252. - Certain buses and trucks to stop at railroad crossing.

Every motor vehicle transporting passengers, for hire, every school bus, and every motor vehicle transporting high explosives, or poisonous or compressed inflammable gases and every motor vehicle used for the transportation of inflammable or corrosive liquids in bulk, whether loaded or empty, shall, upon approaching any railroad grade crossing, be brought to a full stop within fifty (50) feet, but not less than fifteen (15) feet, from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear; provided that such full stop shall not be required at a streetcar crossing within a business or residence district, nor at a railroad grade crossing protected by a watchman or traffic officer on duty or by a traffic control "stop and go" signal, nor railroad flashing signal, giving positive indication to approaching vehicles to proceed.

(Ord. No. 222, § 3(300.296), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 304.030.

Secs. 20-253—20-265. - Reserved.

#### ARTICLE X. - MISCELLANEOUS DRIVING RULES

Sec. 20-266. - Following fire apparatus prohibited.

The driver of any vehicle other than one on official business shall not follow any fire apparatus travelling in response to a fire alarm closer than five hundred (500) feet or drive into or park such vehicle within the block or five hundred (500) feet where fire apparatus has stopped in answer to a fire alarm.

(Ord. No. 222, § 3(300.300), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.300.

Sec. 20-267. - Careless and reckless driving.

Any person who drives with a willful and wanton disregard for the safety of persons, property, life, limb or traffic, is deemed and declared to be guilty of careless and reckless driving and guilty of a misdemeanor.

(Ord. No. 222, § 3(300.301), 1-8-80)

Sec. 20-268. - Driving while under the influence of alcoholic beverages or drugs.

It is unlawful for any person who is under the influence of alcoholic beverages or narcotic drugs to drive any vehicle upon any highway, public road, street, alley or other public way of the city.

(Ord. No. 222, § 3(300.302), 1-8-80)

**State Law reference—** Driving while intoxicated, RSMo. § 577.010.

Sec. 20-269. - Driving with excessive blood alcohol count.

No person shall drive a motor vehicle when the person has ten-hundredths of one percent or more by weight of alcohol in his blood. As used in this section, percent by weight of alcohol in the blood shall be based upon grams of alcohol per one hundred milliliters of blood and may be shown by chemical analysis of the person's blood, breath, saliva or urine. For the purposes of determining the alcohol content of a person's blood under this section, the test shall be conducted in accordance with the provisions of RSMo. Sections 564.441, 564.442 and 564.444, RSMo. Sections 577.020 through 577.041.

(Ord. No. 222, § 3(300.303), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 577.012.

Sec. 20-270. - Crossing fire hoses.

No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street, private driveway or streetcar track, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

(Ord. No. 222, § 3(300.305), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.305.

Sec. 20-271. - Driving through funeral or other procession.

No driver of a vehicle shall drive between the vehicle comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this ordinance. This provision shall not apply at intersections where traffic is controlled by traffic control signals or police officers.

(Ord. No. 222, § 3(300.310), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.310.

Sec. 20-272. - Driving in procession.

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and shall allow the vehicle ahead as close as is practicable and safe.

(Ord. No. 222, § 3(300.315), 1-8-80)

**Cross reference**— Parades generally, § 19-76 et seq.

**State Law reference**— Similar provisions, RSMo. § 300.315.

Sec. 20-273. - Funeral procession to be identified.

Funeral procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division.

(Ord. No. 222, § 3(300.320), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.320.

Sec. 20-274. - Driving vehicles on sidewalk.

The driver of a vehicle shall not drive within any sidewalk area except as a permanent or temporary driveway.

(Ord. No. 222, § 3(300.330), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.330.

Sec. 20-275. - Limitations on backing.

The driver of a vehicle shall not back the same unless such movement can be made with reasonable

(Ord. No. 222, § 3(300.335), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.335.

Sec. 20-276. - Opening and closing vehicle doors.

No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, nor shall any person leave a door open on the side of a motor vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

(Ord. No. 222, § 3(300.340), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.340.

Sec. 20-277. - Riding bicycle on sidewalks.

No person shall ride a bicycle upon a sidewalk within a business district. Whenever any person is riding a bicycle upon a sidewalk, such person shall yield the right-of-way to any pedestrian and shall give audible signal before overtaking and passing such pedestrian.

(Ord. No. 222, § 3(300.345), 1-8-80)

Sec. 20-278. - Riding on motorcycles; additional passenger; requirements.

- (a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one (1) person, in which event a passenger may ride upon the permanent and regular seat if designed for two (2) persons, or upon another seat firmly attached to the rear or side of the operator.
- (b) The operator of a motorized bicycle shall ride only astride the permanent and regular seat attached thereto, and shall not permit more than one (1) person to ride thereon at the same time, unless the motorized bicycle is designed to carry more than one (1) person. Any motorized bicycle designed to carry more than one (1) person must be equipped with a passenger seat and footrests for the use of a passenger.

**State Law reference**— Similar provisions, RSMo. § 300.345.

Sec. 20-279. - Clinging to vehicles.

No person riding upon any bicycle, motorized bicycle, motorized scooter, motorized skateboard, coaster, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway.

(Ord. No. 222, § 3(300.350), 1-8-80; Ord. No. 833, § 4, 9-21-04)

**State Law reference**— Similar provisions, RSMo. § 300.350.

Sec. 20-280. - Entrances and exits to controlled access highways.

No person shall drive a vehicle onto or from any controlled access roadway except at such entrances and exits as are established by public authority.

(Ord. No. 222, § 3(300.355), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.355.

Sec. 20-281. - Railroad trains not to block streets.

It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in such a manner as to prevent the use of any street for purposes of travel for a period of time longer than five (5) minutes; provided that this section shall not apply to a moving train or to one stopped because of emergency or for repairs necessary before it can proceed safely.

(Ord. No. 222, § 3(300.360), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.360.

Sec. 20-282. - Driving through safety zone prohibited.

No vehicle shall at any time be driven through or within a safety zone.

(Ord. No. 222, § 3(300.365), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.365.

Sec. 20-283. - Signals for turning or stopping.

- (a) An operator or driver when stopping or when checking the speed of his vehicle, if the movement of other vehicles may reasonably be affected by such checking of speed, shall extend his arm down at a right angle so that the same may be seen from the rear of his vehicle.
- (b) An operator or driver intending to turn his vehicle to the right shall extend his arm at a right angle above horizontal so that the same may be seen from the rear of his vehicle and shall slow down and approach the intersecting highway as near as practicable to the right side of the highway along which he is proceeding before turning.
- (c) An operator or driver intending to turn his vehicle to the left, shall extend his arm in a horizontal position so that the same may be seen from the rear of his vehicle and shall slow down and approach the intersecting highway so that the left side of his vehicle shall be as near as practicable to the center line of the highway along which he is proceeding before turning.
- (d) The operator of a motor vehicle, equipped with a mechanical or electrical signalling device which displays a signal visible from the front and rear, indicating the operator's intention to turn or stop, or that the speed of the motor vehicle is being slowed, need not signal with the hand and arm so long as the mechanical or electrical signalling device is operating properly and is being properly used.

(Ord. No. 222, § 3(300.368), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.368.

Sec. 20-284. - Careless and imprudent driving prohibited.

Every person operating a motor vehicle on the streets of this city shall exercise the highest degree of care and shall operate the vehicle in a careful and prudent manner and at a rate of speed so as not to endanger the property of another or the life or limb of any person, taking into consideration the time of day, the amount of vehicular and pedestrian traffic, the condition of the street or highway, the atmospheric conditions and the location with reference to intersecting streets or highways, curves, residences or schools.

(Ord. No. 222, § 3(300.369), 1-8-80; Ord. No. 271, § 1, 11-16-82)

Sec. 20-285. - Driving prohibited without proof of insurance.

- (a) All motor vehicles licensed by the State of Missouri shall be required to have the minimum amount of motor vehicle insurance as determined by the State of Missouri Department of Revenue when operating within the corporate limits of the city. The operator of the same must provide evidence of said insurance coverage upon request of a police officer of this city.
  - (b) Failure to have the required insurance or produce evidence of same shall result, upon conviction, a minimum of one hundred dollars (\$100.00) and up to a fine of one thousand dollars (\$1,000.00) and/or ninety (90) days in jail.
  - (c) The request of the required evidence of insurance by a police officer may only be made in conjunction with a motor vehicle or operator violation, or as a result of a motor vehicle accident.
- (Ord. No. 612, 3-18-97; Ord. No. 896, § 1, 12-5-06)

**Editor's note—** Ord. No. 612, adopted Mar. 18, 1997 did not specifically amend the Code; hence, inclusion of its provisions as § 20-285 herein was at the discretion of the editor.

Sec. 20-286. - Unattended vehicles.

No person driving or in charge of a motor vehicle shall permit it to stand unattended on public property without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the brake thereon and when standing upon any grade, turning the front wheels to the curb or side of the roadway.

(Ord. No. 848, § 1, 2-1-05)

Secs. 20-287—20-300. - Reserved.

ARTICLE XI. - PEDESTRIANS

Sec. 20-301. - Pedestrians subject to traffic control devices.

Pedestrians shall be subject to traffic control signals as heretofore declared in sections 20-137 and 20-138 of this Code, but at all other places pedestrians shall be granted those rights and be subject to the restrictions stated in this article.

(Ord. No. 222, § 3(300.370)), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.370.

Sec. 20-302. - Pedestrians' right-of-way in crosswalks.

- (a) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is travelling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.
- (b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield.
- (c) Subsection (a) shall not apply under the conditions stated in subsection (b) of Section 20-305 of this Code.
- (d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

(Ord. No. 222, § 3(300.275), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.375.

Sec. 20-303. - Pedestrians to use right half of crosswalks.

Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(Ord. No. 222, § 3(300.080), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.380.

Sec. 20-304. - Crossing at right angles.

No pedestrian shall cross a roadway at any place other than by a route at right angles to the curb or by the shortest route to the opposite curb except in a crosswalk.

(Ord. No. 222, § 3(300.385) 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.385.

Sec. 20-305. - When pedestrian shall yield.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
- (c) The foregoing rules in this section have no application under the conditions stated in Section 20-306 of this Code when pedestrians are prohibited from crossing at certain designated places.

(Ord. No. 222, § 3(300.390), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.390.

Sec. 20-306. - Prohibited crossing.

- (a) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a crosswalk.
- (b) No pedestrian shall cross a roadway other than in a crosswalk in any business district.
- (c) No pedestrian shall cross a roadway other than in a crosswalk upon any street designated by ordinance.
- (d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(Ord. No. 222, § 3(300.395), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.395.

Sec. 20-307. - Obedience of pedestrians to bridge and railroad signals.

- (a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.
- (b) No pedestrian shall pass through, around, over, or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed.

(Ord. No. 222, § 3(300.400), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.400.

Sec. 20-308. - Pedestrians walking along roadways.

- (a) Where sidewalks are provided it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- (b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction.

(Ord. No. 222, § 3(300.405), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.405.

Sec. 20-309. - Drivers to exercise highest degree of care.

Notwithstanding the foregoing provisions of this article, every driver of a vehicle shall exercise the highest degree of care to avoid colliding with any pedestrian upon any roadway and shall give warning by sounding the horn when necessary and shall exercise proper precaution upon observing any child or any confused or incapacitated person upon a roadway.

(Ord. No. 222, § 3(300.410), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.410.

Sec. 20-310. - Blind pedestrians.

The driver of a vehicle approaching a totally or partially blind pedestrian who is carrying a cane predominantly white or metallic in color, with or without a red tip, or using a guide dog shall take all necessary precautions to avoid injury to such blind pedestrian, and any driver who fails to take such precautions shall be liable in damages for any injury caused such pedestrian; provided that a totally or partially blind pedestrian not carrying such a cane or using a guide dog in any of the places, accommodations or conveyances listed in section 209.150, RSMo., shall have all of the rights and privileges conferred by law upon other persons.

**State Law reference—** Similar provisions, RSMo. § 304.080.

Sec. 20-311. - Pedestrians soliciting rides or business.

- (a) No person shall stand in a roadway for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.
- (b) No person shall stand in or be in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.

(Ord. No. 222, § 3(300.411), 1-8-80)

Sec. 20-312. - Pedestrian ahead traffic sign

The city council hereby directs the city traffic engineer to place and maintain a "pedestrian ahead" traffic sign for westbound traffic on Kennewick Drive, which traffic sign shall be placed at the northwest corner of the intersection Kennewick Drive and Kimbrough Drive. Said "Pedestrian Ahead" traffic sign shall have the design shown on Exhibit A attached to the ordinance from which this section is derived and made a part hereof by this reference.

(Ord. No. 746, § 1, 5-7-02)

Secs. 20-313—20-325. - Reserved.

## ARTICLE XII. - STOPPING, STANDING OR PARKING<sup>[4]</sup>

*Footnotes:*

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**Cross reference**— *Parking vehicles for sale, § 11-87; parking vehicles to display advertising, § 11-88; abandoned, wrecked or discarded vehicles, § 13-2; parking of vehicles in parks, § 14-45; off-street parking standards for subdivisions, App. B, § 165.*

### DIVISION 1. - GENERALLY

Sec. 20-326. - Standing or parking close to curb.

- (a) Except as otherwise provided in this division every vehicle stopped or parked upon a roadway where there are adjacent curbs shall be so stopped or parked with the right-hand wheels of such vehicle parallel to and within eighteen (18) inches of the right-hand curb, and headed in the direction of lawful traffic movement.
- (b) No person shall stop, stand or park any vehicle upon any state-maintained highway or through street as established here, in such manner or under such conditions as to leave available less than the following distances in each lane or lanes of directional travel:
  - (1) Two-lane roadways, thirteen (13) feet from the centerline in each directional lane of travel.
  - (2) Three-lane roadways, thirteen (13) feet in each respective lane.
  - (3) Four-lane undivided roadways, twenty-five (25) feet from the centerline in each two (2) directional lanes of travel.
  - (4) Four-lane divided roadways, thirteen (13) feet in each respective lane.

(Ord. No. 222, § 3(300.415), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.415.

Sec. 20-327. - Signs or markings indicating angle parking.

- (a) The city traffic engineer shall determine upon what streets angle parking shall be permitted, and, under the direction of the city council, shall mark or sign such streets, but such angle parking shall not be indicated upon any federal-aid or state highway within the city unless the state highway commission has determined by resolution or other entered in its minutes that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic.
- (b) Angle parking shall not be indicated or permitted at any place where passing traffic would thereby be cause or required to drive upon the left side of the street or upon any streetcar tracks.

(Ord. No. 222, § 3(300.420), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.420.

Sec. 20-328. - Obedience to angle parking signs or markers.

On those streets which have been signed or marked by the city traffic engineer for angle parking, no person shall park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

(Ord. No. 222, § 3(300.425), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.425.

Sec. 20-329. - Permits for loading or unloading at an angle to the curb.

- (a) The city traffic engineer is authorized to issue special permits to permit the backing of a vehicle to the curb for the purpose of loading or unloading merchandise or materials subject to the terms and conditions of such permit. Such permits may be issued either to the owner or lessee of real property or to the owner of the vehicle and shall grant to such person the privileges as therein stated and authorized herein.
- (b) It shall be unlawful for any permittee or other person to violate any of the special terms or conditions of any such permit.

(Ord. No. 222, § 3(300.430), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.430.

Sec. 20-330. - Lamps on parked vehicles.

- (a) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise and in the event there is sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such street or highway no lights need be displayed upon such parked vehicle.
- (b) Whenever a vehicle is parked or stopped upon a roadway which has been designated as an arterial road by the county or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is not sufficient light to reveal any person or object within a distance of five hundred (500) feet upon such highway, such vehicle so parked or stopped shall be equipped with one or more lamps meeting the following requirements: At least one lamp shall display a white or amber light visible from a distance of five hundred (500) feet to the front of the vehicle, and the same lamp or at least one other lamp shall display a red light visible from a distance of five hundred (500) feet to the rear of the vehicle, and the location of said lamp or lamps shall always be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closer to passing traffic. The foregoing provisions shall not apply to a motor-driven cycle.
- (c) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed.

(Ord. No. 222, § 3(300.435), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.435.

Secs. 20-331—20-340. - Reserved.

## DIVISION 2. - PROHIBITED IN SPECIFIC PLACES

Sec. 20-341. - Generally.

- (a) Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall:
  - (1) Stop, stand or park a vehicle:
    - a. On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
    - b. On a sidewalk, except as permitted by subsection (c) below in this section 20-341;
    - c. Within an intersection;
    - d. On a crosswalk;
    - e.

Between a safety zone and the adjacent curb or within thirty (30) feet of points on the curb immediately opposite the ends of a safety zone, unless the city traffic commission indicates a different length by signs or markings;

- f. Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;
  - g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
  - h. On any railroad tracks;
  - i. At any place where official signs prohibit stopping;
  - j. Within eight (8) feet of a mailbox;
  - k. Upon the right of way of any controlled or limited access highway.
- (2) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:
- a. In front of a public or private driveway;
  - b. Within fifteen (15) feet of a fire hydrant;
  - c. Within twenty (20) feet of a crosswalk at an intersection;
  - d. Within thirty (30) feet upon the approach to any flashing signal, stop sign, or traffic control signal located at the side of a roadway;
  - e. Within twenty (20) feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five (75) feet of said entrance (when properly signposted);
  - f. At any place where official signs prohibit standing.
  - g. Within any officially designated and appropriately marked fire lane.
- (3) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers;
- a. Within fifty (50) feet of the nearest rail of a railroad crossing;
  - b. At any place where official signs prohibit parking;
  - c. Between the sidewalk and street in a residential area, except as permitted by subsection (c) below in this section 20-341;
  - d. Within the center aisle of a court or cul-de-sac;
- (b) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.
- (c) Notwithstanding subsections (a)(1)b and (a)(3)c of this section 20-341, between the hours of 10:00 p.m. and the following 6:30 a.m. only, in residential zoning districts, with the permission of the owner or occupant of said residential lot, a person may park a permitted vehicle (i) across a sidewalk, provided the sidewalk area on which the vehicle is parked is within and part of a paved driveway, and (ii) on that portion of a paved driveway which is located between the sidewalk and street. However, in no event may any part of a vehicle parked pursuant to the preceding sentence extend into the street. Except as expressly permitted by this subsection, the parking prohibitions set forth in subsections (a) (1)b and (a)(3)c of this section 20-341 shall remain in full force and effect.

(Ord. No. 222, § 3(300.440), 1-8-80; Ord. No. 345, § 1, 9-17-85; Ord. No. 1010, §§ 1—3, 10-19-10)

**State Law reference**— Similar provisions, RSMo. § 300.440.

Sec. 20-342. - Parking not to obstruct traffic.

No person shall park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten (10) feet of the roadway for free movement of vehicular traffic.

(Ord. No. 222, § 3(300.445), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.445.

Sec. 20-343. - Parking in alleys.

No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten (10) feet of the width of the roadway for the free movement of vehicular traffic, and no person shall stop, stand or park a vehicle within an alley in such position as to block the driveway entrance to any abutting property.

(Ord. No. 222, § 3(300.450), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.450.

Sec. 20-344. - Parking for certain purposes prohibited.

No person shall park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying such vehicle for sale; or
- (2) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

(Ord. No. 222, § 3(300.455), 1-8-80)

**Cross reference—** Parking of vehicles for sale on private or public property, § 11-87.

**State Law reference—** Similar provisions, RSMo. § 300.455.

Sec. 20-345. - Parking adjacent to schools.

- (a) The city traffic engineer, at the direction of the city council, is hereby authorized to erect signs indicating no parking upon either or both sides of any street adjacent to any school property when such parking would, in his opinion, interfere with traffic or create a hazardous situation.
- (b) When official signs are erected indicating no parking upon either side of a street adjacent to any school property as authorized herein, no person shall park a vehicle in any such designated place between the hours of 7:00 a.m. and 5:00 p.m. on school days.

(Ord. No. 222, § 3(300.460), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.460.

Sec. 20-346. - Parking prohibited on narrow streets.

- (a) The city traffic engineer at the direction of the city council, is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed twenty (20) feet, or upon one side of a street as indicated by such signs when the width of the roadway does not exceed thirty (30) feet.
- (b) When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any such street in violation of any such sign.

(Ord. No. 222, § 3(300.465), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.465.

Sec. 20-347. - Standing or parking on one-way streets.

The city traffic engineer, at the direction of the city council, is authorized to erect signs upon the left-hand side of any one-way street to prohibit the standing or parking of vehicles, and when such signs are in place, no person shall stand or park a vehicle upon such left-hand side in violation of any such sign.

(Ord. No. 222, § 3(300.470), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.470.

Sec. 20-348. - Standing or parking on one-way roadways.

In the event a highway includes two (2) or more separate roadways, no person shall stand or park a vehicle upon the left side of such one-way roadway unless signs are erected to permit such standing or parking. The city traffic engineer, at the direction of the city council, is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

(Ord. No. 222, § 3(300.475), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.475.

Sec. 20-349. - No stopping, standing or parking near hazardous or congested places.

- (a) The city traffic engineer, at the direction of the city council, is hereby authorized to determine and designate by proper signs places not exceeding one hundred feet in length in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.
- (b) When official signs are erected at hazardous or congested places as authorized herein, no person shall stop, stand, or park a vehicle in any such designated place.

(Ord. No. 222, § 3(300.480), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.480.

Sec. 20-350. - Parking prohibited within fire lanes.

- (a) Definition. A fire lane is a normal travel lane that is appropriately marked to prevent vehicle parking to allow unobstructed access for emergency vehicles.
- (b) The director of public works, at the direction of the city council, is hereby authorized to erect signs and/or affix appropriate surface painting indicating the designated fire lanes set forth in Schedule IX (A) of the Code of Ordinances of the City of Black Jack. When appropriate signs and/or surface painting have been established, it shall be unlawful for any person to stand or park a vehicle, whether occupied or unoccupied, except momentarily to pick up or discharge a passenger or passengers within any designated fire lane described in Schedule IX (A).
- (c) The director of public works shall review with the chief of the fire protection district providing services to the City of Black Jack, the established schedule of fire lanes and, based upon the recommendation of the chief of the fire protection district providing services to the City of Black Jack, recommend to the city council the inclusion of additional fire lanes or the exclusion of existing fire lanes.

(d)

Whenever the city council contemplates the passage of an ordinance establishing a fire lane on private property within the city limits of the City of Black Jack, prior to the consideration of such ordinance by the city council, the clerk of the City of Black Jack shall notify, by certified mail, the owner of said property and all tenants holding a leasehold interest in said property, of the city council's intent to consider an ordinance establishing said fire lane. The aforementioned notice shall contain a statement of the council's intent to establish a fire lane, the approximate location of the fire lane upon the property and the date and time of the council meeting at which the ordinance will be introduced. The notice shall be deposited with the United States Postal Service at least fifteen (15) working days prior to the scheduled council meeting at which the ordinance is proposed to be introduced.

- (e) Any person found guilty of violating the provision of this section shall be punished as provided in Section 20-5 of the Code of Ordinances of the City of Black Jack.

(Ord. No. 345, § 2, 9-17-85)

**Editor's note—** Schedule IX(A) pertaining to fire lanes as referred to in this section was not set out in the Code at the time of codification of Ord. No. 345.

Sec. 20-351. - Parking prohibited in space designated for the physically disabled.

- (a) The city traffic engineer, at the discretion to the city council, is authorized to establish, for the physically disabled, parking spaces at appropriate public locations throughout the city as designed by the city council and to erect signs indicating that parking in said spaces is restricted to motor vehicles which are marked as belonging to physically disabled individuals. The city traffic engineer, in designating the aforementioned parking spaces shall comply in all respects with the provision of Section 301.143 of the Revised Statutes of the State of Missouri.
- (b) It shall be unlawful for any individual to park his/her motor vehicle in the aforementioned spaces designated for physically disabled persons, unless said vehicle displays the distinguishing license plate or placard issued by the State of Missouri pursuant to Sections 301.071 or 301.142 of the Revised Statutes of the State of Missouri.

**Editor's note—** Ord. No. 351, § 1, adopted Dec. 3, 1985, amended the Code by the addition of § 20-350; however, inasmuch as Ord. No. 345, § 2, adopted Sept. 17, 1985, had previously added § 20-350, the provisions of said Ord. No. 351 have been included herein as § 20-351.

Sec. 20-352. - Parking vehicle without consent.

No person shall park a motor vehicle on a parking lot or on any private way or street without the consent of the owner of such parking lot or private way or street or without the consent of the operator of such parking lot.

(Ord. No. 378, § 1, 5-19-87)

Sec. 20-353. - Parking prohibited in residential yards.

- (a) No person shall park or permit any vehicle to remain in the yard of such residential property, unless such vehicle is parked on a paved driveway or paved designated parking area as described in subsection (c).
- (b) For the purpose of this section, the term "yard" shall mean the open space at grade on the same lot as a building or structure located between the main building and each adjoining lot line.
- (c)

A designated parking area must be adjacent and contiguous to the driveway serving the residential property and constructed with the same material as the driveway to which it is adjacent, but shall not include any areas designated as a "patio" on building plans on file with the city for such property. Such designated parking area may not be located within an area that is five (5) feet in front of the front door entrance to the residence, or in an area between a road and the front yard set back line established by application of the zoning ordinance of the city.

(Ord. No. 570, § 2, 6-20-95; Ord. No. 830, § 1, 9-7-04; Ord. No. 1009, § 1, 10-19-10)

Sec. 20-354. - Parking of construction vehicles, semi-tractor trailers and recreational vehicles.

(a) For the purpose of this section the following definitions shall apply:

- (1) *Recreational equipment* means a camper trailer, pick-up camper (not attached to the truck), motorized mobile home, boat, house boat, boat trailer, horse trailer, dune buggies, snowmobiles, motorcycles and ATV (all terrain vehicle), or any similar equipment designed, constructed, or modified for recreational or travel use and otherwise not primarily used for ordinary day to day transportation.
- (2) *House trailer* means a self-contained mobile structure designed to be used for dwelling purposes, rather than recreational or travel purposes, which has been or reasonably may be transported on its own wheels or on a flatbed or other trailer. This definition shall not include construction trailers, provided a permit has been obtained from the director of public works.
- (3) *Front yard* means a space extending across the entire front of a lot between the structure setback line as required by the regulations of a particular zoning district and the roadway right-of-way line. In the case of corner lots, the front yard shall be deemed the yard facing any street.
- (4) *Rear yard* means a space opposite the front yard, extending across the entire rear of a lot between the structure setback line as required by the regulations of a particular zoning district and the rear lot line.
- (5) *Side yard* means a space extending between the structure setback line as required by the regulations of a particular zoning district and the side lot lines measured between the front yard and the rear yard.
- (6) *Enclosed garage* means a structure which is primarily designed or intended for the storage of vehicles and which, when all accesses to the interior are closed, has the ability to totally shield from view anything stored therein.

- (b) Except as provided in subsections (c) and (f), no construction vehicles, semi-tractor trailers, box type trucks, recreational equipment or house trailer having a gross weight in excess of ten thousand (10,000) pounds, or in excess of twenty-three (23) feet in overall length, shall be parked on any driveway, roadway, or highway on private property within the city or on a designated parking area as described in Section 20-353(c) on private property in a residentially zoned area within the city, except for deliveries, in an emergency, or when moving in or out of a residence or building, but in the latter case, the vehicle or trailer shall not remained parked in excess of twenty-four (24) hours.
- (c) Temporary permits may be granted by the city for the purpose of loading and unloading recreational vehicles. Such permits shall not be granted for periods of more than forty-eight (48) hours.
- (d) Construction vehicles, semi-tractor trailers and recreational vehicles shall not be permanently or temporarily connected to a source of water, electricity, gas, sewer, or other utility facility in the city, and shall at no time be used for living or sleeping quarters in the city.

(e)

Except when engaged in the pickup, towing, or assisting of a motorist in the customary types of services, no tow truck shall be parked on any driveway, roadway, or highway within the City of Black Jack.

(f) A recreational vehicle, having a gross weight in excess of ten thousand (10,000) pounds, or in excess of twenty-three (23) feet in overall length, may be parked in a residentially zoned area within the city in accordance with the following conditions:

(1) A maximum of one (1) recreational vehicle shall be permitted to be parked or stored on a paved driveway or paved designated parking area in a rear yard or side yard, provided that such recreational vehicle is screened from view at normal eye level from any street or from any adjoining lot by fencing, landscaping or other similar device approved by the director of public works. For purposes of this subsection, a recreational vehicle situated on top of a travel trailer required to transport said recreational vehicle (i.e. a boat and trailer) shall be deemed one (1) recreational vehicle. In addition, for purposes of this subsection, a "side yard" and "rear yard" shall be as defined in Sections 20-354(a)(4) and (5) above.

(g) Any recreational vehicle, equipment trailer or recreational equipment may be parked or stored at any time in an enclosed garage.

(Ord. No. 570, § 3, 6-20-95; Ord. No. 876, § 3, 1-3-06; Ord. No. 880, § 1, 2-21-06; Ord. No. 1009, §§ 2, 3, 10-19-10; Ord. No. 1053, § 1, 8-6-13)

Secs. 20-355—20-360. - Reserved.

#### DIVISION 3. - STOPPING FOR LOADING OR UNLOADING ONLY

Sec. 20-361. - City traffic engineer to designate curb loading zones.

The city traffic engineer, at the direction of the city traffic commission, is hereby authorized to determine the location of passenger and freight curb loading zones and shall place and maintain appropriate signs indicating the same and stating the hours during which the provisions of this section are applicable.

(Ord. No. 222, § 3(300.485), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.485.

Sec. 20-362. - Permits for curb loading zones.

The city traffic engineer shall not designate or sign any curb loading zone upon special request of any person unless such person makes application for a permit for such zone and for two (2) signs to indicate the ends of each such zone. The city traffic engineer upon granting a permit and issuing such signs shall collect from the applicant and deposit in the city treasury a service fee of ten dollars (\$10.00) per year or fraction thereof and may by general regulations impose conditions upon the use of such signs and for reimbursement of the city for the value thereof in the event of their loss or damage and their return in the event of misuse or upon expiration of permit. Every such permit shall expire at the end of one (1) year.

(Ord. No. 222, § 3(300.490), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.490.

Sec. 20-363. - Standing in passenger curb loading zone.

No person shall stop, stand, or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger curb loading zone during hours when the regulations applicable to such curb loading zone are effective, and then only for a period not to exceed three (3) minutes.

(Ord. No. 222, § 3(300.495), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.495.

Sec. 20-364. - Standing in freight curb loading zones.

No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a freight curb loading zone during hours when the provision applicable to such zones are in effect.

(Ord. No. 222, § 3(300.500), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.500.

Sec. 20-365. - City traffic engineer to designate public carrier stops and stands.

The city traffic engineer, at the direction of the city council, is hereby authorized and required to establish bus stops, bus stands, taxicab stands and stands for other passenger common carrier motor vehicles on such public streets in such places and in such number as he shall determine to be of the greatest benefit and convenience to the public, and every such bus stop, bus stand, taxicab stand, or other stand shall be designated by appropriate signs and listed in Schedule X of this chapter. The taxicab stands as established, regulated, licensed and set forth in Schedule X of this chapter shall be designated by appropriate signs and markers.

(Ord. No. 222, § 3(300.505, 300.506), 1-8-80)

**State Law reference—** Similar provisions, RSMo. § 300.505.

Sec. 20-366. - Stopping, standing and parking of buses and taxicabs regulated.

- (a) The operator of a bus shall not stand or park such vehicle upon any street at any place other than a bus stand so designated as provided herein.
- (b) The operator of a bus shall not stop such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop, bus stand or passenger loading zone so designated as provided herein, except in case of emergency.
- (c) The operator of a bus shall enter a bus stop, bus stand or passenger loading zone on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen (18) inches from the curb and the bus approximately paralleled to the curb so as not to unduly impede the movement of other vehicular traffic.
- (d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated as provided herein. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(Ord. No. 222, § 3(300.510), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.510.

Sec. 20-367. - Restricted use of bus and taxicab stands.

No person shall stop, stand, or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone.

(Ord. No. 222, § 3(300.515), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.515.

Secs. 20-368—20-385. - Reserved.

#### DIVISION 4. - RESTRICTIONS OR PROHIBITIONS ON SPECIFIC STREETS

Sec. 20-386. - Application of chapter.

The provision of this chapter prohibiting the standing or parking of a vehicle shall apply at all times or at those times herein specified or as indicated on official signs except it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

(Ord. No. 222, § 3(300.520), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.520.

Sec. 20-387. - Regulations not exclusive.

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing, or parking of vehicles in specified places or at specified times.

(Ord. No. 222, § 3(300.525), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.525.

Sec. 20-388. - Parking prohibited at all times on certain streets.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets described by Schedule IX of this chapter.

(Ord. No. 222, § 3(300.530), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.530.

Sec. 20-389. - Parking prohibited during certain hours on certain streets.

No person shall park a vehicle between the hours specified by ordinance within the district described by Schedule IX of this chapter.

(Ord. No. 222, § 3(300.535), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.535.

No person shall stop, stand or park a vehicle upon any of the streets described by Schedule IX of this chapter.

(Ord. No. 222, § 3(300.540), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.540.

Sec. 20-391. - Parking signs required.

Whenever any ordinance of the city any parking time limit is imposed or parking is prohibited on designated streets it shall be the duty of the city traffic engineer, under the direction of the city council, to erect appropriate signs giving notice thereof excluding signs pertaining to Section 20-393 of this Code and no such regulations shall be effective unless said signs are erected and in place at the time of any alleged offense.

(Ord. No. 222, § 3(300.545), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.545.

Sec. 20-392. - Commercial vehicles prohibited from using certain streets.

In cases where an equally direct and convenient alternate route is provided, an ordinance may describe and signs may be erected giving notice thereof, that no persons shall operate any commercial vehicle upon streets or parts of streets so described except those commercial vehicles making deliveries thereon.

(Ord. No. 222, § 3(300.550), 1-8-80)

**State Law reference**— Similar provisions, RSMo. § 300.550.

Sec. 20-393. - Night parking.

- (a) The operator of a vehicle shall not park the vehicle on any street between the hours of 2:00 a.m. and 6:00 a.m. of any day, except for state-licensed health professionals on emergency calls. This section does not prohibit bona fide guests or invitees in a residence in the city from parking on any adjacent or nearby streets, provided that day-to-day guests shall be subject to the same restrictions as permanent residents. In cases where a property owner has no garage, carport, driveway or means of parking a vehicle on his property, he may make application to the police representative for a permit to leave his vehicle on the street between the hours of 2:00 a.m. and 6:00 a.m.; and if after investigation the police representative determines that a permit should be granted to prevent a hardship, it shall be issued upon such terms and conditions as may be proper under the circumstances; however, this permit is not to exceed three (3) months. The police representative shall collect a fee of five dollars (\$5.00) from each such applicant to cover the administrative costs of the issuance of said permit. All denied permits will be forwarded to the city council for review.
- (b) Temporary permits for parking on the street between 2:00 a.m. and 6:00 a.m. may be issued to residents and day-to-day visitors of residents of the city in cases where it is temporarily impossible for them to park their vehicles off the street. No more than fourteen (14) temporary permits shall be issued for a vehicle or vehicles to be parked on the street between 2:00 a.m. and 6:00 a.m. for one residence during any calendar quarter. This temporary permit will be issued upon request by phone, in writing or in person at the city hall. A master log of all permits, hardship and temporary, will be kept by the city clerk. The city traffic engineer shall post a sign on all streets as they enter the city stating "Parking Prohibited on All Streets Between 2:00 A.M. and 6:00 A.M."

(Ord. No. 913, § 1, 7-17-07)

**Editor's note**— Ord. No. 913, § 1, adopted July 17, 2007, repealed § 20-393, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 20-393 pertained to similar subject matter and derived from Ord. No. 222, § 3(300.551), adopted Jan. 8, 1980 and Ord. No. 279, § 4(a), adopted Feb. 1, 1983 (approved at an election held Apr. 5, 1983).

Secs. 20-394—20-410. - Reserved.

ARTICLE XIII. - BICYCLES, MOTORIZED BICYCLES, MOTORIZED SCOOTERS, SKATEBOARDS AND MOTORIZED SKATEBOARDS<sup>[5]</sup>

*Footnotes:*

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**Editor's note**—Ord. No. 833, § 5, adopted Sept. 21, 2004, amended the title of Article XIII to read as herein set out.

Sec. 20-411. - Effect of regulations.

- (a) It is a misdemeanor for any person to do any act forbidden or fail to perform any act required in this article.
- (b) The regulations applicable to bicycles shall apply whenever a bicycle, motorized scooter, motorized skateboard, or motorized bicycle is operated upon any highway, road or street or upon any path set aside for the exclusive use of bicycles subject to those exceptions stated herein.

(Ord. No. 222, § 3(300.635), 1-8-80; Ord. No. 833, § 6, 9-21-04)

Sec. 20-411.1. - Bicycle and motorized bicycle; defined.

- (a) The word "bicycle" shall mean every vehicle propelled solely by human power upon which any person may ride, having two (2) tandem wheels, or two (2) parallel wheels and one (1) or two (2) forward or rear wheels, all of which are more than fourteen (14) inches in diameter, except scooters and similar devices;
- (b) The term "motorized bicycle" shall mean any two- or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty (50) cubic centimeters, which produces less than three (3) gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty (30) miles-per-hour on level ground.

(Ord. No. 938, § 1, 5-20-08)

Sec. 20-412. - Traffic laws to apply.

Every person riding a bicycle, motorized scooter, motorized skateboard, or motorized bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by the laws of this state declaring rules of the road applicable to vehicles or by the traffic ordinances of this city applicable to the driver of a vehicle, except as to special regulations in this article and except as to those provisions of laws and ordinances which by their nature can have no application.

(Ord. No. 222, § 3(300.640), 1-8-80; Ord. No. 833, § 6, 9-21-04)

Sec. 20-413. - Obedience to traffic-control devices.

- (a) Any person operating a bicycle, motorized skateboard, motorized bicycle, or motorized scooter shall obey the instructions of official traffic-control signals, signs and other traffic-control devices applicable to vehicles, unless otherwise directed by a police officer.

- (b) Whenever authorized signs are erected indicating that no right, left or "U" turn is permitted, no person operating a bicycle, motorized skateboard, motorized bicycle, or motorized scooter shall disobey the direction of any such sign. Where such person dismounts from such device to make any such turn, the person shall then obey the regulations applicable to pedestrians.

(Ord. No. 222, § 3(300.645), 1-8-80; Ord. No. 833, § 7, 9-21-04)

Sec. 20-414. - Riding on bicycles, motorized bicycles, motorized scooters, and motorized skateboards.

- (a) A person propelling a bicycle, motorized scooter, motorized skateboard, or motorized bicycle shall not ride other than astride a permanent and regular seat attached thereto.
- (b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

(Ord. No. 222, § 3(300.650), 1-8-80; Ord. No. 833, §§ 6, 8, 9-21-04)

Sec. 20-415. - Riding on roadways and bicycle paths.

- (a) Every person operating a bicycle upon a roadway shall ride as near to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (b) Persons riding bicycles upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (c) Wherever a suitable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway.

(Ord. No. 222, § 3(300.655), 1-8-80)

Sec. 20-416. - Speed.

No person shall operate a bicycle, motorized scooter, motorized skateboard, or motorized bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Ord. No. 222, § 3(300.660), 1-8-80; Ord. No. 833, § 6, 9-21-04)

Sec. 20-417. - Emerging from alley or driveway.

The operator of a bicycle, motorized scooter, motorized skateboard, or motorized bicycle emerging from an alley, driveway or building shall, upon approaching a sidewalk or the sidewalk area extending across an alleyway, yield the right-of-way to all pedestrians approaching on said sidewalk or sidewalk area, and upon entering the roadway, shall yield the right-of-way to all vehicles approaching on said roadway.

(Ord. No. 222, § 3(300.665), 1-8-80; Ord. No. 833, § 6, 9-21-04)

Sec. 20-418. - Carrying articles.

No person operating a bicycle, motorized scooter, motorized skateboard, or motorized bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handle bars.

(Ord. No. 222, § 3(300.670), 1-8-80; Ord. No. 833, § 6, 9-21-04)

Sec. 20-419. - Parking.

No person shall park a bicycle, motorized scooter, motorized skateboard, or motorized bicycle upon a street other than upon the roadway against the curb or upon the sidewalk in a rack to support the bicycle or against a building or at the curb in such manner as to obstruct pedestrian traffic.

(Ord. No. 222, § 3(300.675), 1-8-80; Ord. No. 833, § 6, 9-21-04)

Sec. 20-420. - Lamps and other equipment.

Every bicycle and motorized bicycle when in use on a street or highway during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with the following:

- (1) A front-facing lamp on the front or carried by the rider which shall emit a white light visible at night under normal atmospheric conditions on a straight, level, unlighted roadway at five hundred (500) feet;
- (2) A rear-facing red reflector, at least two (2) square inches in reflective surface area, or a rear-facing red lamp, on the rear which shall be visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lower beams of vehicle headlights at six hundred (600) feet;
- (3) Reflective material and/or lights on any part of the bicyclist's pedals, crank arms, shoes or lower leg, visible from the front and the rear at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at two hundred (200) feet; and
- (4) Reflective material and/or lights visible on each side of the bicycle or bicyclist and visible at night under normal atmospheric conditions on a straight, level, unlighted roadway when viewed by a vehicle driver under the lawful lower beams of vehicle headlights at three hundred feet. The provisions of this subdivision shall not apply to motorized bicycles which comply with National Highway Traffic and Safety Administration regulations relating to reflectors on motorized bicycles.

(Ord. No. 938, § 2, 5-20-08)

**Editor's note—** Ord. No. 938, § 2, adopted May 20, 2008, repealed § 20-420, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 20-420 pertained to similar subject matter and derived from Ord. No. 222, § 3(300.680) adopted Jan. 8, 1980.

Sec. 20-420.1. - Brakes required.

Every bicycle and motorized bicycle shall be equipped with a brake or brakes which will enable its driver to stop the bicycle or motorized bicycle within twenty-five (25) feet from a speed of ten (10) miles-per-hour on dry, level, clean pavement.

(Ord. No. 938, § 3, 5-20-08)

Sec. 20-421. - Use of skateboards.

- (a) Skateboard operators in the City of Black Jack shall wear equipment designed to protect adequately their hands, knees, elbows, heads and feet. Such equipment must include, but is not limited to, all of the following: A helmet designed and suitable for use by skateboard riders, kneepads, elbow pads, heavy duty gloves, and shoes.
- (b) Within the City of Black Jack, no person may ride or use a skateboard or permit another to use his skateboard, or a skateboard over the use of which he has custody or control in or on any alleys, streets, roads, or highways, or other publicly maintained way or street intended for vehicular use or in or on any shopping center, including its parking lot, sidewalks, malls, or walkways, or in or on any business parking lot.
- (c)

Within the City of Black Jack, no person may ride or use a skateboard or permit another to use his skateboard under the use of which he has custody, or control, in or on any property belonging to, leased by, or otherwise under the control or authorization of a church, synagogue, or other house of worship, or of any public or private school, certified by the Missouri Department of Education for the education of minors, if the responsible authority of such church, synagogue, or other house of worship, or of such school, shall have caused to be posted, in a conspicuous place, a sign or other form of notification reasonably designed to give notice that such use of skateboards is prohibited.

(Ord. No. 389, § 3, 10-6-87)

Sec. 20-422. - Motorized bicycles, motorized scooters, and motorized skateboards; general requirements and operation.

- (a) No person may operate a motorized bicycle, motorized scooter, or motorized skateboard on a highway, public road, street, alley or any other public way unless such person is sixteen (16) years of age or older.
- (b) It is unlawful for any person to use or operate a motorized bicycle, motorized scooter, or motorized skateboard upon any sidewalk (whether in a business district or a residential area) or public trail within the City of Black Jack.
- (c) It shall be unlawful for any person to operate a motorized bicycle, motorized scooter, or motorized skateboard within any park in the city, except in such areas and at such times as may be designated by the city.
- (d) Every motorized bicycle, motorized scooter, and motorized skateboard when in use during the hours between dusk and dawn (darkness), shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least five hundred (500) feet to the front and with a red reflector on the rear of a type which shall be visible from all distances up to six hundred (600) feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle. A lamp emitting a red light visible from a distance of five hundred (500) feet to the rear may be used in addition to the red reflector. A light-emitting diode flashing taillight visible from a distance of five hundred (500) feet to the rear may also be used in addition to the red reflector.
- (e) Operation of a motorized bicycle, motorized scooter, or motorized skateboard without a muffling device in good working order and in constant operation to prevent excessive or unusual noise, or operation with a modified muffling device, is unlawful.
- (f) Operation of a motorized bicycle, motorized scooter, or motorized skateboard on a highway, public road, street, or any other public way having a speed limit in excess of twenty-five (25) miles per hour is unlawful unless the motorized bicycle, motorized scooter, or motorized skateboard is operated within a bicycle lane.
- (g) A person operating a motorized bicycle, motorized scooter, or motorized skateboard is not subject to the provisions of the ordinances of the City of Black Jack relating to registration and licensing requirements, and, for those purposes, a motorized bicycle, motorized scooter, or motorized skateboard are not motor vehicles, unless said ordinances are amended to require said registration and licensing requirements.
- (h) The following vehicles shall be exempt from the provisions of this article applicable to motorized bicycles, motorized scooters, and motorized skateboards:
  - (1) Vehicles licensed as electric bikes and scooters that offer mobility for those who are physically disabled;

- (2) Vehicles used by the government or any governmental agency, instrumentality or entity, including the United States Postal Service, performing service to the public;
- (3) Personal motorized vehicles used by governmental law enforcement personnel including police officers; and
- (4) Landscaping equipment.

(Ord. No. 833, § 9, 9-21-04)

Sec. 20-423. - Helmet and safety equipment required for operating a motorized scooter, motorized bicycle, and motorized skateboard; defined.

Any person operating a bicycle, motorized bicycle, motorized scooter, or motorized skateboard or riding as a passenger upon a motorized bicycle, motorized scooter, or motorized skateboard on any public area in the city shall wear:

- (1) An approved helmet designed for safety and shall have either the neck or chin strap of the helmet fastened securely while the motorized scooter is in motion; and
- (2) Safety equipment. "Helmet" means a protective covering for the head consisting of a hard outer shell, padding adjacent to and inside the outer shell, and a neck or chin strap type retention system, which meets or exceeds the standards required by the Federal Consumer Product Safety Commission as adopted by the Code of Federal Regulations 16 C.F.R. § 1203. "Safety equipment" includes footwear that covers the entire foot and toes, protective glasses or goggles, padding for knees, chest and elbows.

(Ord. No. 833, § 10, 9-21-04; Ord. No. 938, § 4, 5-20-08)

Sec. 20.424. - Riding bicycles, motorized bicycles, motorized scooters, motorized skateboards, sleds, roller skates, by attaching to another vehicle; prohibited—Pulling a rider behind vehicle; prohibited.

No person riding upon any bicycle, motorized bicycle, motorized scooter, motorized skateboard, roller skates, sled or toy vehicle shall attach the same or himself to any vehicle upon a roadway. Neither shall the driver of a vehicle knowingly pull a rider behind a vehicle.

(Ord. No. 938, § 5, 5-20-08)

Secs. 20-425—20-435. - Reserved.

#### ARTICLE XIV. - VEHICLE LOAD, CONDITION AND EQUIPMENT

Sec. 20-436. - Passenger limitations.

It is unlawful to drive a motor vehicle which has more than three persons over the age of sixteen (16) years in the front seat, nor shall any person extend any part of his body outside the vehicle except the hand and arm for signaling purposes only.

(Ord. No. 222, § 3(300.700), 1-8-80)

Sec. 20-437. - Dangerously or carelessly loaded vehicles.

No person shall drive an overloaded vehicle or one loaded in such manner that any part of the load is likely to fall upon and litter any road or street or cause injury to persons or damage to other vehicles or property nor shall he permit any part of the load to fall upon and to remain upon the road or street.

(Ord. No. 222, § 3(300.710), 1-8-80)

Sec. 20-438. - Littering roads.

- (a) No person shall throw, dump, deposit or place or cause to be thrown, dumped, deposited or placed upon any highway, road, street, alley or right-of-way of same:
  - (1) Any tacks, nails, wire, scrap metal, glass, crockery, sharp stones, or other substances injurious to the feet of persons, animals, or the tires of vehicles.
  - (2) Any paper, rubbish, garbage or debris of any and all kinds.
  - (3) Any mud, dirt, sand, gravel, rock, stone or other excavated material or substance dug, scooped, blasted or removed from the earth on any lot or tract of land, provided, however, that this provision shall not apply to any excavation in highways for which a special permit has been issued by the director of public works.
  - (4) Any and all substances and materials which cause or may cause a hazard and obstruction to the movement of traffic.
- (b) No person shall throw, dump, deposit or place or cause to be thrown, dumped or deposited or placed, such materials and substances in such manner as to cause the same to roll, flow or wash upon any highway, road, street, alley or right-of-way of same.
- (c) No person, when moving or hauling any such materials and substances upon any highway, road, street, alley or right-of-way of same, shall allow said substance and materials to blow, spill, drop or otherwise come to rest over and upon said highway, road, street, alley or right-of-way.
- (d) Any person who, by reason of accident, violates this section, shall be held blameless of such violation upon an affirmative showing that he:
  - (1) Immediately cleaned and cleared away the materials or substances involved; or
  - (2) Immediately made reasonable and conscientious effort to clean and clear; or
  - (3) By reason of such accident was rendered incapable of cleaning and clearing away the materials or substances involved.

(Ord. No. 222, § 3(300.715), 1-8-80)

**State Law reference—** Placing glass on highway, RSMo. § 304.160.

Sec. 20-439. - Horns required.

Every motor vehicle shall be equipped with an adequate horn for warning. It is unlawful to use any siren or loudspeaking radio or sound system on any street. This section does not apply to authorized emergency vehicles.

(Ord. No. 222, § 3(300.720), 1-8-80)

Sec. 20-440. - Muffler cutouts.

Muffler cutouts shall not be used and no vehicle shall be driven in such manner or condition that excessive and unnecessary noises shall be made by its machinery, motor, signaling device, or other parts, or by any improperly loaded cargo. The motors of all motor vehicles shall be fitted with properly attached mufflers of such capacity or construction as to quiet the maximum possible exhaust noise. Any cutout or opening in the exhaust pipe, between the motor and the muffler on any motor vehicle, shall be completely closed and disconnected from its operating lever, and shall be so arranged that it cannot automatically open or be opened or operated while such vehicle is in motion.

(Ord. No. 222, § 3(300.725), 1-8-80)

Sec. 20-441. - Lights required on all vehicles.

- (a) No driver shall operate a motor vehicle on any highway, road, street or alley of the city:
  - (1) During the period from one-half (½) hour after sunset to one-half (½) hour before sunrise; or
  - (2) Whenever weather conditions require use of the motor vehicle's windshield wipers to operate the vehicle in a careful and prudent manner as defined in section 20-284 of this chapter; or
  - (3) Whenever the motor vehicle is in fog, even if use of the windshield wipers is not necessary to operate the vehicle in a careful and prudent manner, unless such vehicle shall display at least two (2) lighted lamps on the front, one (1) on each side, having a light source of equal power, which shall project either white or yellow light.
- (b) Every person driving a motor vehicle equipped with multiple-beam road lighting equipment, during the times when lighted lamps are required, shall use a distribution of light or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations: Whenever the driver of a vehicle approaches an oncoming vehicle within five hundred (500) feet, or is within three hundred (300) feet to the rear of another vehicle traveling in the same direction, such driver shall use a distribution of light or composite beam so aimed that the glaring rays are not projected into the eyes of the on-coming driver, and in no case shall the high-intensity portion which is projected into the left of the prolongation of the extreme left side of the vehicle be aimed higher than the center of the lamp from which it comes at a distance of twenty-five (25) feet ahead, and in no case higher than a level of forty-two (42) inches above the level upon which the vehicle stands at a distance of seventy-five (75) feet ahead.
- (c) No driver shall operate a motor vehicle on any highway, road, street or alley of the city during the period from one-half hour after sunset to one-half hour before sunrise, unless such vehicle shall display two (2) lighted lamps on the rear, which shall display a red light visible from the rear for a distance of at least five hundred (500) feet; and which shall shine upon the number plate in such a manner as to render the numerals thereon visible for at least fifty (50) feet in the direction from which the vehicle is proceeding.

(Ord. No. 222, § 3(300.730), 1-8-80; Ord. No. 900, § 1, 12-19-06)

Sec. 20-442. - Passenger restraint system required for children under four (4) years of age—Exception.

- (a)
  - (1) Every person transporting a child under the age of sixteen (16) years shall be responsible, when transporting such child in a motor vehicle operated by that person, for providing for the protection of the child. Every child under the age of four (4) years shall be protected by a child passenger restraint system appropriate for that child.
  - (2) Children weighing less than forty (40) pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child.
  - (3) Children at least four years of age but less than eight years of age, who also weigh at least forty (40) pounds but less than eighty (80) pounds, and who are also less than four feet, nine inches (4'9") tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child.
  - (4) Children at least eighty (80) pounds or children more than four feet, nine inches (4'9") in height shall be secured by a vehicle safety belt or booster seat appropriate for that child.
  - (5)

A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is equipped with a combination lap and shoulder belt for booster seat installation.

- (6) When transporting children in the immediate family when there are more children than there are seating positions in the enclosed area of a motor vehicle, the children who are not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area.

The driver transporting children referred to in this subsection is not in violation of this section.

- (b) Any person who violates this section may upon conviction be fined not more than twenty-five dollars (\$25.00) and court costs. The charges shall be dismissed or withdrawn if the driver prior to or around his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the city prosecutor.
- (c) This section does not apply to any public carrier for hire. The provisions of this section shall not apply to students four years of age or older who are passengers on a school bus designed for carrying eleven passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as defined in Section 301.010 R.S.Mo.

(Ord. No. 909, § 1, 5-1-07)

**Editor's note—** Ord. No. 909, § 1, adopted May 1, 2007, repealed § 20-442, in its entirety and enacted new provisions to read as herein set out. Prior to amendment § 20-442, pertained to use of seatbelts and derived from Ord. No. 354, §§ 1—6, adopted Feb. 4, 1986.

Sec. 20-442.1. - Seat belts required for passenger cars.

- (a) As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons except that the term "passenger car" shall not include motor-cycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of twelve thousand (12,000) pounds or more.
- (b) Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from their vehicles, or which require frequent entry into and exit from their vehicles, and each front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this county, and persons less than eighteen (18) years of age operating or riding in a truck as defined in Section 301.010 R.S.Mo., shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that a child less than four (4) years of age shall be protected as required in section 20-442. Each driver of a motor vehicle transporting a child four (4) years of age or more, but less than sixteen (16) years of age, shall secure the child in a properly adjusted and fastened safety belt. The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about his or her body or to persons operating or riding a motor vehicle being used in agricultural work-related activities.
- (c) Each person who violates the provisions of subsection (b) of this section shall upon conviction be fined not more than ten dollars (\$10.00). Court costs will not be assessed for this violation. In no case shall points be assessed against any person, pursuant to Section 302.302 R.S.Mo., for violation of this section.

(Ord. No. 909, § 1, 5-1-07)

Sec. 20-442. Vision reducing material applied to windshield or windows without permit prohibited.

penalty; rules; procedure; exception.

- (a) Except as provided in this section, no person shall operate any motor vehicle registered in the State of Missouri on any public highway or street in the city with any manufactured vision-reducing material applied to any portion of the motor vehicle's windshield, side wings, or windows located immediately to the left and right of the driver, which reduces visibility from within or without the motor vehicle. This section shall not prohibit labels, stickers, decalcomania, or informational signs on motor vehicles or the application of tinted or solar screening material to recreational vehicles, as defined in section 700.010 of the Missouri Statutes, provided that such material does not interfere with the driver's normal view of the road. This section shall not prohibit factory installed tinted glass, the equivalent replacement thereof or tinting material applied to the upper portion of the motor vehicle's windshield, which is normally tinted by the manufacturer of motor vehicle safety glass.
- (b) Any permit to operate a motor vehicle allowing the use of vision-reducing material, which is issued by the State of Missouri pursuant to section 307.173 of the Missouri Statutes, shall not constitute a violation under this section.
- (c) Any person, firm or corporation who violates the provisions of this section and is found guilty for said violation shall be subject to penalty under section 1-13 of this Code. Each day any violation of any provision of this section shall continue shall constitute a separate offense.

(Ord. No. 679, § 1, 4-4-00)

Sec. 20-444. - Vehicles with obstructed vision.

- (a) No person shall operate a motor vehicle unless the operator has a clear view of all parts of the roadway essential to the safe operation of the vehicle unobstructed by the vehicle's load, modifications to the vehicle, accumulation on the windshield or other windows of snow, mud, or other material, or any other cause.
- (b) Any vehicle licensed with a historical license plate shall be exempt from the requirements of this section.

(Ord. No. 899, § 1, 12-19-06)

Sec. 20-445. - Transporting children under sixteen years of age, restraint systems.

- (a) As used in this section, the following terms shall mean:
  - (1) *Child booster seat* [means] a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;
  - (2) *Child passenger restraint system* [means] a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system.
- (b) No driver shall transport a child under the age of sixteen (16) years unless, when transporting such child in a motor vehicle operated by that driver on any highway, road, street or alley of the city, the driver shall provide for the protection of such child as follows:
  - (1) Children less than four (4) years of age, regardless of weight, shall be secured in a child passenger restraint system appropriate for that child;
  - (2) Children weighing less than forty (40) pounds, regardless of age, shall be secured in a child passenger restraint system appropriate for that child;

Children at least four (4) years of age but less than eight (8) years of age, who also weigh at least forty (40) pounds but less than eighty (80) pounds, and who are also less than four feet, nine inches (4'9") tall, shall be secured in a child passenger restraint system or booster seat appropriate for that child;

- (4) Children at least eighty (80) pounds or children more than four feet, nine inches (4'9") in height shall be secured by a vehicle safety belt or booster seat appropriate for that child;
  - (5) A child who otherwise would be required to be secured in a booster seat may be transported in the back seat of a motor vehicle while wearing only a lap belt if the back seat of the motor vehicle is not equipped with a combination lap and shoulder belt for booster seat installation;
  - (6) When transporting children in the immediate family when there are more children than there are seating positions in the enclosed area of a motor vehicle, the children who are not able to be restrained by a child safety restraint device appropriate for the child shall sit in the area behind the front seat of the motor vehicle unless the motor vehicle is designed only for a front seat area. The driver transporting children referred to in this subsection is not in violation of this section.
- (c) The provisions of this section shall not apply to any public carrier for hire, or to students four (4) years of age or older who are passengers on a school bus designed for carrying eleven (11) passengers or more and which is manufactured or equipped pursuant to Missouri Minimum Standards for School Buses as school buses are defined in Section 301.010, R.S.Mo.

(Ord. No. 898, § 1, 12-19-06)

Secs. 20-446—20-455. - Reserved.

#### ARTICLE XV. - REGISTRATION, LICENSES AND PERMITS

Sec. 20-456. - Vehicles on roads to be licensed.

No person shall operate or park a motor vehicle or trailer upon the highways, roads, streets or alleys in the city unless such vehicle or trailer shall have attached to it registration plates in accordance with Chapter 301, Section 301.010 to 301.020, Revised Statutes of Missouri, providing for the registration and licensing of motor vehicles. Application for registration of a motor vehicle not previously registered in Missouri and operated on the public highways of this state shall be made within thirty (30) days after the owner of such motor vehicle has become a resident of this state.

(Ord. No. 222, § 3(300,755), 1-8-80; Ord. No. 509, § 1, 4-20-93)

Sec. 20-457. - Chauffeurs to have state licenses.

- (a) It is unlawful for any person to drive as a chauffeur any vehicle upon any of the highways, roads, streets, or alleys of the city unless such person has a valid license as a chauffeur under the provisions of the laws of Missouri, except as provided in Chapter 302, Section 302.051, Revised Statutes of Missouri.
- (b) It is unlawful for any person to drive other than as a chauffeur any motor vehicle except farm tractors, upon any of the highways, roads, streets or alleys of the city unless such person has a valid license, or permit as an operator under the provisions of the laws of Missouri, except that any person holding a valid chauffeur's license shall not be required to procure an operator's license.
- (c) The license issued shall be carried at all times by the holder thereof while driving a motor vehicle, and shall be displayed upon demand of any officer of the authorized law enforcement agency or any police officer or peace officer, or any other duly authorized person, for inspection when demand is

made therefor. Failure of any chauffeur or operator of a motor vehicle, to exhibit his license to any of the aforesaid officers, or other duly authorized officer, shall be presumptive evidence that such person is not a duly licensed chauffeur or motor vehicle operator.

(Ord. No. 222, § 3(300.760), 1-8-80)

Sec. 20-458. - Age limit of operators.

- (a) It is unlawful for any person under the age of sixteen (16) years to operate a motor vehicle on the highway, public roads, streets or alleys of the city.
- (b) It is unlawful for the owner of any motor vehicle to permit any person under the age of sixteen (16) years to operate such motor vehicle on the highways, public roads, streets or alleys of the city, except that persons who have passed the age of fifteen (15) years, but who have not reached the age of sixteen (16) years, and who have been issued a driver's permit by the director of revenue of Missouri, as provided in Section 302.130, Revised Statutes of Missouri, may operate a motor vehicle on the highways, roads, streets or alleys of the city, only when an instructor approved by the state department of education is occupying a seat beside the driver.

(Ord. No. 222, § 3(300.765), 1-8-80)

Sec. 20-459. - Permitting unlicensed person operating motor vehicle prohibited.

No person shall authorize or knowingly permit a motor vehicle owned by him or under his control to be driven by any person who is not authorized to drive under any of the provisions of Chapter 302, Sections 302.010 to 302.270 of the Revised Statutes of Missouri, providing for drivers' and chauffeurs' licenses.

(Ord. No. 222, § 3(300.770), 1-8-80)

Sec. 20-460. - Presumption in reference to unlicensed person operating motor vehicle.

In any prosecution charging a violation of section 20-459 of this Code, proof that an unauthorized person, as described in such section and in Chapter 302, Sections 302.010 to 302.070 of the Revised Statutes of Missouri, 1969, was driving the motor vehicle described in the complaint, together with proof that the defendant named in the complaint was at the time described in the complaint, the registered owner of such vehicle, shall constitute a prima facie presumption that the registered owner was the person who authorized or knowingly permitted such unauthorized person to drive said vehicle at the point, where, and for the time during which such violation occurred.

(Ord. No. 222, § 3(300.775), 1-8-80)

Secs. 20-461—20-475. - Reserved.

ARTICLE XVI. - SCHEDULES

Sec. 20-476. - Schedule I, electric traffic control signals.

This section shall be known as Schedule I, and may be cited as such. In accordance with Section 20-130 of this Code, all traffic at the following listed locations shall be controlled by electrically operated traffic signals.

School Signals

Old Halls Ferry Road at Jury School

Barker Road at Salem Lutheran School

## Fire Station Signals

Old Halls Ferry Road at entrance to Black Jack Station

(Ord. No. 222, § 3(Sch. I), 1-8-80)

Sec. 20-477. - Schedule II, speed limits on state highways.

This section shall be known as Schedule II, and may be cited as such. In accordance with Section 20-162 of this Code, the maximum speed limits on the state highways or portions thereon listed in this schedule, shall be as specified in this schedule:

*Route    Portion or Limits of Said Route    Max. MPH*

(Ord. No. 222, § 3(Sch. II), 1-8-80)

**Editor's note—** There are no entries for the above schedule at this time; such schedule is reserved for future use.

Sec. 20-478. - Schedule III, special speed limits on county arterial roads and city streets.

This section shall be known as Schedule III, and may be cited as such. In accordance with Section 20-165 of this Code, and when signs are erected giving notice thereof, the maximum speed limit on the following county arterial roads and city streets or roads or portions thereof shall be as set forth in this schedule:

<i>Road</i>	<i>Speed Limit (MPH)</i>
Old Halls Ferry	35
Old Jamestown	35
Parker	35
Trailbend Drive	<u>20</u>

The City Council of the City of Black Jack may by ordinance or resolution approve the inclusion of the words "Caution Children" on any speed limit sign in the city.

(Ord. No. 255, § 3(Sch. III), 6-2-81; Ord. No. 452, § 1, 9-4-90; Ord. No. 1027, § 1, 11-15-11)

Sec. 20-479. - Schedule IV, turn restrictions.

This section shall be known as Schedule IV, and may be cited as such. In accordance with Section 20-206 of this Code, vehicular traffic shall at certain intersections or locations be prohibited from making a right turn, left turn or "U" turn as specified in this schedule, provided that proper signs have been posted:

*Intersection or Location    Turn Restrictions*

(Ord. No. 222, § 3(Sch. IV), 1-8-80)

**Editor's note—** There are no entries for the above schedule at this time; such schedule is reserved for future use.

Sec. 20-480. - Schedule V, through roads and streets.

This section shall be known as Schedule V, and may be cited as such. In accordance with Section 20-241 of this Code and when signs are erected giving notice thereof, drivers of vehicles shall stop at every intersection before entering any of the following highways, roads, streets or parts of highways, roads or streets:

Old Halls Ferry Road from the northern city limits to the southern city limits.

Old Jamestown Road from the northern city limits to its intersection with Parker Road.

Parker Road from the eastern city limits to the western city limits with the exception of northbound traffic on Old Halls Ferry Road.

(Ord. No. 222, § 3(Sch. V), 1-8-80)

Sec. 20-481. - Schedule VI, intersection stops.

This section shall be known as Schedule VI, and may be cited as such. In accordance with section 20-243 of this Code, and when signs are erected giving notice thereof, traffic at the intersections listed in this schedule shall be required to stop as specified in this schedule:

Intersection	Traffic on Road or Street Listed Below Shall Stop
Abington and Bristol Rock, southbound only	Abington
Abington and Wensley, southbound on Wensley	Wensley
Bielefeld Drive and Wildridge Estates Court	Bielefeld Drive, northbound
Bielefeld Lane and Bielefeld Drive	Bielefeld Lane, northbound
Brampton Hunt and Priorybrook	Brampton Hunt (northwest corner)
Branridge Road and Elk Trail Drive	Branridge Road, northbound and southbound
Branridge Road and Priorybrook Road	Southbound on Branridge (Sign installed on NW Corner)
	Northbound on Branridge (Sign installed on SE Corner)
Branridge and Wensley Road	Branridge

Brendenwood Drive and Parkton Place	Brendenwood southbound
Bristol Rock and Priorybrook, southbound only	Priorybrook
Bristol Rock and Priorybrook	Bristol Rock (southeast corner)
Bristol Rock and Rollingsford	Rollingsford
Broadridge Lane and Jamestown Ridge Drive	Broadridge Lane northbound
Broadridge Lane and Meuse Drive	Southbound on Broadridge one-way intersection sign
Broadridge Lane and Orley Drive	Four-way intersection sign
Carolview Drive and Bristol Rock Road Northbound on Carolview Drive	Carolview Drive
Carolview Drive and Evelynaire Drive	Southbound on Carolview Drive (sign installed on NW corner)
Centerbrook and Craigment	Craigment
Elk Trail and Branridge	Elk Trail, westbound
Evelynaire Drive and Florence Hill Place	Evelynaire Drive, eastbound and westbound
Evelynaire Drive and Hazeloak Drive	Evelynaire Drive, eastbound and westbound
Highcrest Drive and Jamestowne Ridge Drive	Highcrest Drive, eastbound
Jamestown Ridge Lane and Jamestown Ridge Drive	Jamestown Ridge Lane Westbound
Jerries Lane and Sandy Creek Lane	Sandy Creek Lane
Jerries Lane and Suntrail	Suntrail
Jerries Lane and Trailbend Drive	Trailbend Drive and Jerries Lane (4-way stop)
Jerries Lane and Trailoaks Drive	Trailoaks Drive

Mystic Bend Lane and Bredenwood Drive	Mystic Bend Lane, westbound
Old Jamestown Forest Drive and Early Morning Drive, southwest corner of	Old Jamestown Forest, eastbound
Old Jamestown Forest Drive and Marne Drive	Marne Drive, southbound
Old Jamestown Forest Drive and Early Morning Drive	Early Morning Drive, northbound
Old Jamestown Forest Drive and Evening Shade Drive	Evening Shade Drive, northbound
Old Jamestown Road and Cedar Crest Creek	Cedar Crest Creek, westbound
Orley Drive and Stoneridge Drive	Northbound Stoneridge Drive and Southbound Orley Drive
Patriciaridge Drive and Carolview Drive	Patriciaridge Drive, eastbound and westbound
Patriciaridge Drive and Latonka Trail	Patriciaridge Drive, eastbound, and Latonka Trail, northbound
Persimmon Bend Lane and Highcrest Drive	Persimmon Bend Lane, southbound (two stop signs, both entrances)
Priorybrook and Branridge, eastbound	Priorybrook
Priorybrook and Branridge, westbound	Priorybrook
Springtrail and Trailbend	Springtrail
Tanglebrook and Vanderwood Drive	Tanglebrook Drive, westbound
Tanglebrook and Vanderwood Drive	Tanglebrook Drive, eastbound
Trailoaks Drive and Trailview Drive	Trailoaks, southbound and Trailview, eastbound

Vanderwood Drive and Talleywood Drive	Talleywood Drive, south-bound
Wheatbridge Drive and Jamestown Ridge	Wheatbridge eastbound
Wheatbridge and Trees Edge Lane	Wheatbridge westbound
Whisper Lake Drive	Whisper Lake Drive (4-way stop)
Wildridge Court and Bielefeld Drive	Wildridge Court, westbound

(Ord. No. 222, § 3(Sch. VI), 1-8-80; Ord. No. 231, § 1, 3-4-80; Ord. No. 318, § 1, 10-2-84; Ord. No. 388, § 9-15-87; Ord. No. 398, §§ 1, 2, 4-5-88; Ord. No. 431, § 1, 9-19-89; Ord. No. 456, 11-20-90; Ord. No. 492, § 1, 4-21-92; Ord. No. 543, § 1, 8-2-94; Ord. No. 586, § 1, 1-16-96; Ord. No. 587, § 1, 3-19-96; Ord. No. 706, § 1, 2-20-01; Ord. No. 811, § 1, 3-16-04; Ord. No. 860, § 1, 5-17-05; Ord. No. 886, § 1, 8-1-06; Ord. No. 923, § 1, 11-6-07; Ord. No. 925, § 1, 11-20-07; Ord. No. 951, § 1, 10-20-08; Ord. No. 955, § 1, 12-16-08; Ord. No. 993, § 4-6-10; Ord. No. 1025, § 1, 11-15-11)

Sec. 20-482. - Schedule VII, yield intersections.

This section shall be known as Schedule VII, and may be cited as such. In accordance with Section 20-244 of this Code and when signs are erected giving notice thereof, traffic at the intersections listed in this schedule shall be required to yield the right-of-way as specified in this schedule:

<i>Yield Intersection</i>	Traffic on Road or Street Listed Below Shall Yield
Elk Trail and Branridge, eastbound only	Elk Trail
Jamestowne Ridge Court at Jamestowne Ridge Lane, northbound	Jamestowne Ridge Court
Northview Heights Court at Parkton Place, southbound	Northview Heights Court
Trailview Drive at Trailoaks Drive, eastbound	Trailview Drive

(Ord. No. 222, § 3(Sch. VII), 1-8-80; Ord. No. 398, § 3, 4-5-88; Ord. No. 488, § 1, 1-21-92; Ord. No. 957, § 1, 12-16-08)

Sec. 20-483. - Schedule VIII, school stops.

This section shall be known as Schedule VIII, and may be cited as such. In accordance with Section 2-246 of this Code, and when proper signs are placed facing traffic, every driver of a vehicle facing such sign shall bring his vehicle to a complete stop and yield the right-of-way to all children and other persons crossing at the locations listed in this schedule:

Old Halls Ferry Road at Jury School

Parker Road at Salem Lutheran School

(Ord. No. 222, § 2(Sch. VIII), 1-8-80)

Sec. 20-484. - Schedule IX, parking restrictions.

This section shall be known as Schedule IX, and may be cited as such. In accordance with Sections 20-388 and 20-389 of this Code, parking shall, on certain roads or streets or parts thereof, be prohibited or limited as described in this schedule, with no parking on any street or road within the city limits between the hours of 2:00 a.m. and 6:00 a.m.:

<i>Part of Road or Street Where Parking Is Regulated</i>	Regulation
Black Jack Court, east side of east leg from its terminus at Parker Road to the south side of the entrance to the shopping center, a distance of 163 feet, and the west side of the west leg from its terminus at Parker Road to south side of the entrance to	No Parking Here To Corner

the shopping center, a distance of 113 feet	
Black Jack Court, west side of the east leg, east side of west leg, and north side of south leg	No Parking Any Time
Bristol Rock, north side from the point where Bristol Rock Road joins Old Halls Ferry Road to the property line between 4733 Bristol Rock Road and 4743 Bristol Rock Road	No Parking Any Time
Bristol Rock, south side of road from the point where Bristol Rock Road joins Old Halls Ferry Road to the property line between 4732 Bristol Rock Road	No Parking Any Time

and 4742 Bristol Rock Road	
Centerbrook, east side only, from the center line of Parker Road southwardly 95 feet	No Parking Any Time
Old Halls Ferry Road, north side only, from the center line of Parker Road westwardly 110 feet	No Parking Any Time
Old Halls Ferry Road, south side only, from the center line of Parker Road westwardly 500 feet	No Parking Any Time
Parker Road, both sides, from the center line of Old Halls Ferry Road westwardly 1175 feet	No Parking Any Time
Rolling Hills Drive, the north and	No Parking Any Time

<p>south portion of the most western section, both sides of the street</p>	
<p>Vanderwood Drive, east and west portion, beginning 25 feet from the south line of the intersection of Tanglebrook Drive, a distance southwardly of approximately 95 feet</p>	<p>No Parking Any Time</p>
<p>Wensley Road, both sides from Abington Road to 150 feet north of the intersection on Wensley and Bayhamabby Roads</p>	<p>No Parking Any Time</p>
<p>Whisper Lake Drive from Old Halls Ferry Road, to Parker Rd</p>	<p>No Parking Any Time</p>

Wolverton, southside of	No parking this side of street
Both sides of Wensley south to Branridge North from Parker Road	No Parking Any Time

(Ord. No. 222, § 3(Sch. IX), 1-8-80; Ord. No. 259, § 1, 9-1-81; Ord. No. 303, § 1, 1-17-84; Ord. No. 339, § 1, 5-7-85; Ord. No. 377, § 1, 5-19-87; Ord. No. 431, § 1, 9-19-89; Ord. No. 485, § 1, 12-17-91; Ord. No. 978, § 1, 6-16-09; Ord. No. 992, § 1, 4-6-10)

Sec. 20-485. - Schedule X, taxicab stands.

This section shall be known as Schedule X, and may be cited as such. In accordance with Section 20-365 of this Code, taxicab stands shall be established on certain portions of highways, roads or streets, as herein described in this schedule, provided proper signs are erected giving notice thereof:

*Part of Highway, Road or Street Where Taxicab Stands Are Established*

(Ord. No. 222, § 3(Sch. X), 1-8-80)

**Editor's note—** There are no entries for the above schedule at this time; such schedule is reserved for future use.

Sec. 20-486. - Schedule XI, one-way roads.

This section shall be known as Schedule XI, and may be cited as such. In accordance with Section 20-227 of this Code, vehicular traffic within the limits of the roads, streets or alleys herein described, shall move only in the indicated direction when signs indicating the direction of traffic are erected and maintained at every intersection where movement in the opposite direction is prohibited:

<i>Description of Road, Street or Alley</i>	Direction of Traffic
Bristol Rock Rd., south leg of entrance island	East
Bristol Rock Rd., north leg of entrance island	West

(Ord. No. 222, § 3(Sch. XI), 1-8-80)

Sec. 20-487. - Reserved.

**Editor's note**— Section 2 of Ord. No. 639, adopted Oct. 6, 1998, deleted § 20-487 which contained a schedule of traffic violations bureau penalties and derived from Ord. No. 222, adopted Jan. 8, 1980; Ord. No. 338, adopted May 5, 1985; Ord. No. 346, adopted Oct. 1, 1985; Ord. No. 395, adopted Dec. 15, 1987; and Ord. No. 501, adopted Jan. 19, 1993.

Sec. 20-488. - Schedule XIII, crosswalk stops.

This section shall be known as Schedule XIII, and may be cited as such. In accordance with Section 20-244 of this Code, stop signs shall be erected so as to require traffic to stop at the following crosswalks:

Trailbend Drive, at the approximate midpoint along the stretch of common ground bordering it; as such location the street shall be striped as a crosswalk, with warning signs posted "crosswalk ahead" in advance of the stop signs.

(Ord. No. 222, § 3 (Sch. XIII), 1-8-80; Ord. No. 270, § 1, 9-21-82)

Sec. 20-489. - Schedule XIV, restricted local traffic streets.

This section shall be known as Schedule XIV, and may be cited as such. In accordance with sections 20-226 and 20-229 of this Code, when signs are erected giving notice thereof, through travel shall be prohibited on the following streets or parts of streets, which shall be designated as restricted local traffic streets:

(Ord. No. 559, § 4, 2-21-95; Ord. No. 631, § 1, 3-3-98)

## Chapter 25 - VEGETATION

### ARTICLE I. - IN GENERAL

Secs. 25-1—25-20. - Reserved.

### ARTICLE II. - TREE PRESERVATION AND RESTORATION

Sec. 25-21. - Short title.

This article shall be known and may be cited as the "Tree Preservation and Restoration Ordinance of the City of Black Jack, Missouri."

(Ord. No. 684, § 1(1), 6-6-2000)

Sec. 25-22. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Caliper or diameter at breast height (DBH).* A measurement of the size of a tree equal to the diameter of its trunk measurement at four and one-half (4½) feet above natural grade. If a tree splits into two (2) or more trunks below four and one-half (4½) feet, then the trunk is measured at its most narrow point below the split. For newly planted trees the caliper measurement will be taken six (6) inches above natural grade.

*Chairman.* The chairman of the commission.

*Commission.* The planning and zoning commission of the City of Black Jack.

*Critical root zone (CRZ).* An area drawn for each tree surveyed which represents the average root system. The average root system follows the crown drip line extending from the outer surface of a tree's branch tips to the ground. CRZs vary depending upon tree species, tree size, soils and moisture level, but shall always be deemed to incorporate a minimum distance of ten (10) feet beyond the defined boundary of the tree's root system.

*Disturb.* Shall include the intentional or unintentional removal, destruction or killing of any tree, other than as provided by this article.

*Grand tree.* A tree in fair or better condition which equals or exceeds the following diameter sizes: Large hardwoods (e.g., oaks, hickories, etc.) 24-inch DBH; large softwoods (e.g., pines, spruces, etc.) 20-inch DBH; small trees (e.g., dogwood, redbud, etc.) 12-inch DBH. A tree in fair or better condition is defined as having a life expectancy of greater than fifteen (15) years, a relatively sound and solid trunk with no extensive decay, no more than one (1) major and several minor dead limbs (hardwoods only), and no major insect or disease problems.

*Grove.* Any grouping of eight (8) or more trees each having eighteen (18) inches or greater caliper with no tree trunk farther than thirty (30) feet from any other tree trunk in the group.

*Specimen vegetation.* A unique grouping of rare or unusual plants justifying preservation pursuant to any established federal, state or local guideline, including those established in the Tree Manual.

*Timber sale.* The cutting, removal or other disturbance of trees affecting seven thousand five hundred (7,500) square feet or more of tree canopy coverage area for the purpose of selling or harvesting such trees or maintaining the health of a wooded area.

*Tree.* A woody plant that grows mostly upright as a single or multiple stem that may eventually attain a height of fifteen (15) feet or more.

*Tree canopy coverage.* The area in square feet of a tree's spread.

*Existing tree canopy* is determined by measuring the ground's surface area that is covered by the branch spread of a single tree or clump or grove of trees.

*Ultimate tree canopy*, to be used where replanting is required, is determined by assigning the following values for planted trees: One thousand (1,000) square feet for a large shade tree or major street tree; seven hundred (700) square feet for each medium street tree and most conifers and three hundred (300) square feet for small flowering trees. The Tree Manual contains a list of approved restoration tree species and their categories.

*Tree Manual.* A document, adopted by this article and on file in the city offices, having detailed instructions for preparing and evaluating tree preservation plans, grading, planting and protection of all types of vegetation. The commission may make amendments to the specifications, standards and procedures in the Tree Manual for application of this article and such amendments shall become effective upon order, resolution or other approval of the council.

*Tree preservation plan (TPP).* A site plan prepared by an approved professional that delineates tree save areas and details measures to be taken to ensure protection and survivability of trees to be saved,

tree preservation plan should include a tree stand delineation.

*Tree stand delineation (TSD).* A detailed description and location of trees and other woody vegetation on the site prior to any proposed land disturbance, prepared in map form, as specified in the Tree Manual. The tree stand delineation is to be prepared using the proposed development plan as a base map so that decisions can be made with respect to preserving existing vegetation.

(Ord. No. 684, § 1(2), 6-6-2000)

Sec. 25-23. - Tree preservation plan required.

No grading permit, excavation permit, subdivision plat or subdivision sketch plan (if a sketch plan is submitted) shall be granted or approved by the city until a tree preservation plan has been filed with and approved by the commission in connection with the proposed land disturbance. The tree preservation plan shall be included as part of a proposed grading plan, excavation plan, subdivision preliminary plat or subdivision sketch plan (if a sketch plan is submitted) or may be a supplement to such plan or plat. The tree preservation plan shall ensure the protection of remaining trees and vegetation on any site subject to authorized land disturbance and shall include such specifications, standards and precautionary measures as prescribed by the commission pursuant to the guidelines in the Tree Manual.

(Ord. No. 684, § 1(3), 6-6-2000)

Sec. 25-24. - Preservation of trees outside setback areas.

No grading permit, excavation permit, subdivision plat or subdivision sketch plan (if a sketch plan is submitted) shall be granted or approved unless at least thirty (30) percent of all tree canopy coverage on land not within any building setback area (required by applicable zoning or subdivision regulations) shall be retained and undisturbed. Where land disturbance is requested in conjunction with development of more than one (1) parcel of land, or where the development will require subdivision into more than one (1) parcel, the setback areas shall apply and be determined by lot according to the preliminary plat or sketch plan (if a sketch plan is submitted) for the proposed development. Redevelopment, resubdivision or amended platting of land after the tree preservation plan has been implemented shall not be permitted to defeat or avoid the tree preservation requirements of this article first applied to the site, and approval of such redevelopment may be conditioned upon restoration of trees to equal the previous tree preservation plan. Where excavation is requested for an approved commercial use, the commission may allow replantings, or existing trees designated to remain after grading, anywhere on the site to count towards the required tree canopy coverage.

(Ord. No. 684, § 1(4), 6-6-2000)

Sec. 25-25. - Supplemental standards for land disturbance.

(1) *General standards-variances.* In addition to all other standards for land disturbance established by law, all approved land disturbances on sites containing any trees shall also conform to the specifications and standards established by the Tree Manual, all requirements established by an approved tree preservation plan, and any other requirements or conditions imposed by the commission consistent with this article. The tree preservation standards required by this article may not be varied by any city officer or the commission except as necessary for construction pursuant to an approved final site plan, planned zoning development, conditional use permit, approved subdivision plat or approved final site plan (or section plan where applicable) specifically authorizing a modification of this

approved, and the commission or approving body may, when feasible, condition a permit upon the restoration or relocation of trees or vegetation on the site in an amount or quality sufficient to offset or ameliorate the variance. A variance shall not be deemed "necessary" where feasible changes in design or construction location or technique could reduce or eliminate the amount of variance.

- (2) *Timber sales.* Notwithstanding anything in this article to the contrary, timber sales shall be permitted as authorized by this subsection. Any person desiring to undertake a timber sale shall request a permit from the commission. Permit applications shall include a timber management plan from a professional forester or other approved professional indicating that the cutting of trees constitutes a thinning or harvesting that ensures continued health and existence of the woodland. The timber management plan shall specify an acceptable method of regeneration for the area to be harvested and shall conform to the standards established by the Missouri Department of Conservation, or such other designated agency, for proper management of tree farms and timber sales. Unless waived by the commission for good cause, no permit for a timber sale shall be granted for any area more than once every ten (10) years.
- (3) *Exceptions.* Nothing in this article shall apply to a disturbance of trees constituting forest crops regularly harvested (e.g., Christmas tree farms, nursery stock, etc.).

(Ord. No. 684, § 1(5), 6-6-2000)

#### Sec. 25-26. - Grand trees and specimen vegetation.

Grand trees and specimen vegetation shall not be disturbed except where it is necessary to permit construction or a use specifically authorized by a planned zoning, conditional use permit, approved subdivision plat or sketch plan, or approved final site plan (or section plan where applicable) granted by the commission, or as may otherwise be permitted by the Tree Manual.

(Ord. No. 684, § 1(6), 6-6-2000)

#### Sec. 25-27. - Restoration of trees bond.

- (1) *Restoration required.* Any tree disturbed in violation of this article or an approved tree preservation plan shall be replanted and restored within six (6) months according to the standards set forth in the Tree Manual. Any tree or tree areas identified to be retained on any tree preservation plan that do not remain alive for a period of at least thirty (30) months after the development of the site or stage ceases shall be rebuttably presumed to be "disturbed" in violation of this article and shall be restored or otherwise mitigated as required herein.
- (2) *Supplemental bond.* In determining the amount of any bond to be submitted to secure a grading permit, excavation permit, subdivision preliminary plat or subdivision sketch plan, the commission shall include such amount as to ensure restoration of trees and to compensate the site for such other losses, including loss of topsoil, as may occur from a disturbance of trees in violation of this article or an approved tree preservation plan. The additional bond amount established by the commission shall include the amounts set forth in the Tree Manual for the restoration or loss of trees. The commission may allow a reduction in the amount of the bond where the land disturbance is subject to stages, provided that no new stage is commenced until all restoration of the precedent stage is completed. If the restoration required by this section is not completed within the time allowed, the commission may cause the bond to be used for such restoration. Upon completion of all construction and development within the site, any unused portion of the bond not used for restoration or unrestorable losses shall be returned to the permittee; provided, however, that not less than fifteen (15) percent of the original amount shall continue to be held by the City of Black Jack for a period of thirty (30)

months to guarantee survival or restoration for such period of any replanted trees or trees required to have been preserved. Any net amounts retained due to violations causing loss of trees in size or character that cannot be similarly replaced shall be transferred to a trust fund established for tree preservation and replacement to mitigate improper tree disturbance, or returned to the permittee if no such appropriate fund exists or is established within thirty (30) months from the effective date of this article. Notwithstanding any expenditure of the bond by the City of Black Jack, the person obtaining the land disturbance permit shall remain responsible for remedying any uncured violations of this chapter. The director of public works, with the consent of the chairman, shall have the authority to increase or decrease the bond amounts and release provisions of this article where under the circumstances such alteration would comply with the intent of this article.

- (3) *Authorization for action by city attorney.* The city attorney shall be authorized to take any other action to enforce the provisions of this article or to remedy any violation including seeking injunctive action or damages for such violations.

(Ord. No. 684, § 1(7), 6-6-2000)

Sec. 25-28. - Unlawful acts on public property.

It shall be unlawful for any person to do any of the following acts on public property or a public right-of-way:

- (1) Attach any sign, advertisement, notice or any other object, except for normal installation and maintenance devices or objects installed by the City of Black Jack or any authorized agent of the city, to any tree or shrub or in any flower bed in the public right-of-way, parks or any other public property in the city.
- (2) Damage, cut, deface, destroy, top or injure any tree, shrub or plant by placing salt, brine, petroleum products, weed killers, concrete washout or any other substance in such an amount as to be injurious to any tree or shrub growth planted in the public right-of-way or upon any park or public property. This provision shall not apply to any ordinary care and maintenance or removal of hazardous trees by a governmental entity authorized to exercise jurisdiction over the public right-of-way, parks or other public property.
- (3) Place or store cement, asphalt, soil or any other substance in the public right-of-way or on any public place which impedes access of air and water to the critical root zone of any tree or shrub planted in the public right-of-way or any other public place.
- (4) Permit any tree, shrub, plant or other item on any person's property to hang over or branch in such a way as to obstruct or obscure street lights, traffic signs, traffic signals or pedestrian or vehicular access on public rights-of-way, or obstruct the view of any street intersection.
- (5) Cause damage to any trees or shrubs in the public right-of-way due to excavation or construction without replacement as prescribed by section 25-27(1), restoration required.

(Ord. No. 684, § 1(8), 6-6-2000)

Sec. 25-29. - Enforcement.

It shall be the duty of the director of public works or his/her designee to enforce the provisions of this article.

(Ord. No. 982, § 1, 8-4-09)

**Editor's note—** Ord. No. 982, § 1, adopted Aug. 4, 2009, deleted § 25-29, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 25-29 pertained to protection or removal of trees on public property remedies. See Code Comparative Table for derivation.

Sec. 25-30. - Protection or removal of trees on public property remedies.

- (a) Any person damaging, cutting, defacing or injuring any tree or shrub on any public property or public right-of-way shall be responsible to pay for any remedial costs in addition to such penalties as may be imposed.
- (b) Each property owner shall cause said property to be kept free from any trees, limbs or other items encroaching on or over any public property or public right-of-way in violation of any ordinance by removing or altering said encroaching items in a manner approved by the director of public works or his/her duly authorized agent. Failure of any property owner to remove or alter encroaching items shall constitute cause for the city to abate said encroaching items as set forth in this article.

(Ord. No. 982, § 1, 8-4-09)

**Editor's note—** Ord. No. 982, § 1, adopted Aug. 4, 2009, deleted § 25-30, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 25-30 pertained to nuisances. See Code Comparative Table for derivation.

Sec. 25-31. - Nuisances.

The director of public works shall have the authority to order the removal of trees or vegetation on private property that endanger the life, health, safety or property of the public and thereby constitute a nuisance. Failure of any property owner to remove said nuisance shall constitute cause for the city to abate said nuisance as set forth in this article.

(Ord. No. 982, § 1, 8-4-09)

**Editor's note—** Ord. No. 982, § 1, adopted Aug. 4, 2009, deleted § 25-31, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 25-31 pertained to conflict with other provisions of the Code. See Code Comparative Table for derivation.

Sec. 25-32. - Notice to owner.

- (a) When the director of public works, or his duly authorized agent, ascertains knowledge of encroaching items or nuisances in violation of this article, the director of public works, or his duly authorized agent, shall serve written notice to the owner or other person in control of such property, which such notice shall state at a minimum:
  - (1) That encroaching items or nuisances exist on said property in violation of this article;
  - (2) A description of the encroaching item or nuisance;
  - (3) That the recipient of the notice is ordered to abate the encroaching item or nuisance within seven (7) days after the notice is served;
  - (4) That the property owner may file a written request for a hearing before the director of public works on the question of whether encroaching items or nuisances exist upon such property; and
  - (5) That if the encroaching items or nuisances are not removed or altered in a manner approved by the director of public works or his/her duly authorized agent within said seven (7) day period, the director of public works, or his duly authorized agent, may have the encroaching items or

nuisances removed and altered, and the costs of the same shall be assessed against such property and may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes.

- (b) The notice to the owner or other person in control of such property described above in subsection (a) shall be served in any one of the following ways:
- (1) By causing said notice to be hand delivered to such owner, such owner's agent, an occupant whose age is fifteen (15) years or more, or other person in control of such property.
  - (2) By posting a copy of such notice upon the property in question, said notice to be deemed served at the end of twenty-four (24) hours after the posting thereof.
  - (3) By mailing such notice or copy thereof by certified mail, return receipt requested, postage prepaid, directed to such owner or other person in control of said property, either at his place of business or residence, said notice to be deemed served twenty-four (24) hours after the mailing of said notice in case it is directed to the business or residence address of the owner or other person in control of said property, provided that if the said owner or other person in control of said property be nonresidents of the city and have no business address or offices in the city, then the said notice shall be deemed served at the end of such period after the mailing thereof as in the ordinary course of transmission of the mail by the United States Government would be required for the receipt of said notice by the owner or other person in control of said property at their place of residence or business.

(Ord. No. 982, § 1, 8-4-09)

**Editor's note—** Ord. No. 982, § 1, adopted Aug. 4, 2009, deleted § 25-32, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 25-32 pertained to penalty for violation of article. See Code Comparative Table for derivation.

#### Sec. 25-33. - Subsequent violations.

If encroaching items or nuisances are permitted to exist on private property in violation of this article more than one (1) time during the same growing season and, pursuant to section 25-32 of the Code, a notice of violation of this article was delivered to the owner or other person in control of such property for any such prior violation during the same growing season, then the director of public works, or his/her duly authorized agent, may, without further notification to such owner or other person in control of such property, remove or alter such encroaching items or nuisances, and may collect the total cost of such removal in the manner set forth in section 25-35(c) of the Code. The director of public works, or his/her duly authorized agent, may hire and enter into contracts with independent contractors to remove or alter such encroaching items or nuisances.

(Ord. No. 982, § 1, 8-4-09)

**Editor's note—** Ord. No. 982, § 1, adopted Aug. 4, 2009, deleted § 25-33, in its entirety and enacted new provisions to read as herein set out. Prior to amendment, § 25-33 pertained to appeals. See Code Comparative Table for derivation.

#### Sec. 25-34. - Removal by city.

- (a) If a property owner fails to remove or alter encroaching items or nuisances in a manner approved by the director of public works or his/her duly authorized agent within seven (7) days after the notice described in section 25-32 of the Code is delivered, the director of public works, or his/her duly

director of public works, or his/her duly authorized agent, may hire and enter into contracts with independent contractors to destroy or remove such noxious growths, encroaching items or nuisances.

- (b) Upon the completion of the removal or alteration of such encroaching items or nuisances by the director of public works, or by a person authorized by contract, the director of public works, or his duly authorized agent, shall cause the total cost of such work to be determined and by report certify the same to the city clerk.
- (c) Upon approval of such report by the city clerk, the city clerk shall endorse the report and shall cause the certified cost to be included in a special tax bill to be collected by the city collector or deputy collector. The special tax bill shall include a charge of eight dollars (\$8.00) for each inspection of the property and the giving of notice plus the cost of abatement as determined by the director of public works. In the event the city collector or deputy collector is unable to collect the certified cost on the special tax bill within ninety (90) days of the due date, the director of public works and city collector or deputy collector shall cause the certified cost to be added to the annual real estate tax bill for the property and the certified cost shall be collected in the same manner and procedure for collecting real estate taxes. If the certified cost is not paid when due, the tax bill shall be considered delinquent, and the collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the property owner and shall also be a first lien on the property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including reasonable attorneys' fees.

(Ord. No. 982, § 1, 8-4-09)

Sec. 25-35. - Conflicts with other provisions of the code.

To the extent any provision of this article conflicts with any provision of section 13-22 of the code, regarding noxious growths, the provisions of section 13-22 of the Code shall govern.

(Ord. No. 982, § 1, 8-4-09)

Sec. 25-36. - Penalty for violation of article.

Any person violating or failing to comply with any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction thereof shall be fined a sum no less than one dollar (\$1.00), nor more than five hundred dollars (\$500.00), or may be imprisoned for a period not to exceed thirty (30) days, or both. The removal of each tree in violation of any provision of this article shall constitute a separate punishable offense.

(Ord. No. 982, § 1, 8-4-09)

Sec. 25-37. - Appeals.

A request for a hearing before the director of public works must be made before the expiration of the seven (7) day period, and the director of public works shall hold the hearing within 10 days of the request. If the property owner or his representative fails to appear at the hearing, the property owner shall be deemed to have waived his right to the hearing. The property owner may choose to appeal directly to the Board of Adjustment of the City of Black Jack without requesting a hearing before the director of public works. Upon compliance with the applicable review procedure, the board of adjustment may modify application of this article II where such application would be arbitrary or constitute an unconstitutional

(Ord. No. 982, § 1, 8-4-09)

APPENDIX A - FRANCHISES<sup>[1]</sup>

Ordinance Number	Adopted	Franchisee	Subject	Term (years)
199	<u>12</u> - 5-78	Union Electric Co.	Electricity	<u>20</u>
<u>250</u>	5- 5-81	—	CATV Franchise Regulation Ordinance	—
257	7-27-81	Gateway Communications, Inc.	CATV	<u>15</u>
276	1-18-83	Gateway Communications, Inc.	Amends Ord. No. 257	—
286	5-17-83	Gateway Communications, Inc.	Amends Ord. No. 257	—
293	9- <u>6-83</u>	Allied Cable Systems, Inc.	CATV	<u>15</u>
304	2- 7-84	Gateway Communications, Inc.	Amends Ord. No. 257	—
305	2- 7-84	Allied Cable Systems, Inc.	Amended Ord. No. 293	—
331	3- 5-85	—	Amended Ord. No. 250	—
353	12-17-85	Cencom of Missouri III	Granting consent to the sale, transfer and assignment of Gateway Communications Inc. CATV franchise to Cencom of	—

			Missouri III	
397	2-16-88	Cencom Entertainment, Inc.	Authorizes transfer of cable television franchise from Cencom of Missouri III to Cencom Entertainment, Inc.	—
406	9-12-88	St. Louis County Water Company	Water System	<u>20</u>
441	2-20-90	Cencom Entertainment, Inc.	Authorizes transfer of cable television franchise from Cencom of Missouri III to Cencom Entertainment, Inc.	—
482	<u>12</u> - 3-91	—	Amends Ord. No. 331	—
494	5-19-92	Cableamerica Corp.	Authorizes transfer of CATV franchise from Allied Cable Systems, Inc., to Cableamerica Corp. Amends Ord. Nos. 293, 305, 308	—
497	11-17-92	—	Repeals Ord. Nos. 331 and 482. Amends Ord. Nos. 250 and 306	—
551	<u>12</u> - <u>6-94</u>	CCA Acquisition Corporation	Granting consent to and authorizing the sale, transfer and assignment of the nonexclusive cable television franchise from Cencom Cable Entertainment, Inc.	—

			to CCA Acquisition Corporation	
556	10-20-92	—	Amends Ord. No. 494	
557	11-17-92	Broadband Telecommunications Network	Repeals Ord. Nos. 331 and 482 and amends Ord. Nos. 250 and 306. Defines powers and duties of the Broadband Telecommunications Network Board; establishes requirements for the submission of periodic reports and budgets to the city council; authorizes promulgation of regulations for the routine operation of public access programming; establishes the position of public access coordinator; and establishes the scope of his/her duties, authority and power.	—
582	2- 7-96	CCA Acquisition Corporation	CATV	<u>15</u>
624	8-19-97	CCA Acquisition Corporation	Amends Ord. No. 582	—
645	11-17-98	Charter Communications	Transfers control from CCA	—

		Entertainment, L.L.C.	Acquisition Corporation to Charter Communications Entertainment, L.L.C.	
651	3-16-99	Union Electric Co.	Renews existing franchise.	<u>20</u>
773	12-17-02	Ameren UE	Street lighting	10
<u>1050</u>	3- 5-13	Ameren UE	Street lighting	—

Footnotes:

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**Cross reference—** Franchise ordinances saved from repeal, § 1-3(2); public access coordinator, § 2-74; reports by public utilities of gross receipts, §§ 10-41, 10-61.

## APPENDIX B - SUBDIVISIONS<sup>[1]</sup>

Footnotes:

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**Editor's note—**Ord. No. 958, § 1, adopted Jan. 20, 2009, repealed Appendix B in its entirety and enacted new provisions to read as herein set out. Prior to amendment, Appendix B pertained to similar subject matter and derived from Ordinance No. 13, enacted October 20, 1970. Ord. No. 958 is set out as enacted, except that the editors have made minor style changes to provide for uniformity in style. No substantive changes have been made. Where the editors have added words they have been encased in brackets [ ]. This manner of compilation, rather than codification in the body of the Code, has been chosen because of the provision of RSMo 89.410(3) which requires a public hearing on all amendments to subdivision ordinances.

**Cross reference—** Subdivision ordinances saved from repeal, § 1-3(8); buildings and building regulations, Ch. 6; planning and development, Ch. 16; subdivision signs, § 17.5-8, zoning, App. C.

## ARTICLE I. - SHORT TITLE, INTENT AND PURPOSE

### Sec. 100. - Short title.

This subdivision code shall be known and may be cited as "The Subdivision Code of the City of Black Jack, Missouri."

(Ord. No. 958, § 1, 1-20-09)

### Sec. 110. - Intent and purpose.

This subdivision code is intended to be utilized in conjunction with the Zoning Ordinance of the City of Black Jack, Missouri to ensure that the development of land within the City of Black Jack occurs in a manner that protects, provides for and promotes the public health, safety, convenience, comfort and

general welfare of the residents of Black Jack. Specific purposes of this subdivision code include the following:

- (a) To ensure the orderly development or redevelopment of land;
- (b) To protect and to conserve the value of buildings and other improvements, and to minimize adverse impact of development on adjoining or nearby properties;
- (c) To ensure proper legal descriptions and documentation of subdivided land for the protection of both purchasers and sellers of land;
- (d) To ensure that purchasers of land will receive a buildable, properly oriented lot which is provided with adequate infrastructure and service facilities;
- (e) To establish standards of design for subdivision improvements and improvements within unsubdivided developments to ensure safe and proper construction of new streets, utilities, drainage facilities, erosion control, and installation of street lighting;
- (f) To ensure a beneficial relationship between the location and orientation of lots and the street system, including safe access and maneuvering of emergency vehicles;
- (g) To designate and define the powers and duties of the officials administering and enforcing this subdivision code; and
- (h) To establish penalties for the violation of this subdivision code.

(Ord. No. 958, § 1, 1-20-09)

Sec. 120. - Conflicts with other ordinances.

Wherever conflict exists between the regulations and minimum standards set forth in this subdivision code with other regulations, ordinances or resolutions, the more restrictive or higher standard shall apply.

(Ord. No. 958, § 1, 1-20-09)

## ARTICLE II. - DEFINITIONS

Sec. 200. - Definitions.

The following words, terms and phrases, when used in this subdivision code, shall have the meanings ascribed in this section.

*Alley* - An internal access road serving as a secondary vehicular access to the rear or side of a lot, block or parcel otherwise abutting a street.

*As-built plans* - Improvement plans depicting improvements as actually installed, including horizontal and vertical location of underground utilities and other underground facilities.

*Benchmark* - A definite point of elevation and location, of more or less permanent character based on United States Geological Survey (USGS) datum. Benchmarks established by 1981 Metropolitan St. Louis Sewer District (MSD) benchmark loop system or MoDOT are acceptable.

*Block* - An area of land within a subdivision, consisting of a series of Lots, entirely surrounded by Streets, highways, Rights-of-Way, streams, parks, etc., or a combination thereof.

*Boundary adjustment* - An adjustment of lot lines of platted lots or other lawful parcels for the purpose of adjusting the sizes of frontages, configuration of buildable Lots, or consolidation of existing lots which does not create an additional lot.

*Building* - Any structure having a roof supported by columns or walls for the housing or enclosure of persons or animals. Where dwellings are separated from each other by a division wall without openings, each portion of such dwelling shall be deemed a separate building.

*Caliper* - The diameter of a tree measured at a height of three (3) feet above the surface of the ground at a distance of not more than one foot from the trunk.

*City* - The City of Black Jack, Missouri.

*City Code* - The Code of Ordinances of the City of Black Jack, Missouri.

*City Council* - The Council of the City of Black Jack, Missouri.

*Commission* - The Planning and Zoning Commission of the City of Black Jack, Missouri.

*Common ground* - Natural or landscaped open space within or related to a subdivision, not in individually owned lots, designed and intended for resource protection or siting common facilities (e.g., recreation facilities and storm drainage detention facilities) and dedicated for the common use of the residents of the subdivision.

*Condominium* - Real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership. Real property is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

*Condominium plat* - A plat of the parcel and of all units of a multi-unit building or buildings which complies with the "Condominium Property Act", Chapter 448 Revised Statutes of Missouri, as amended.

*County* - The County of St. Louis, Missouri.

*Department of Public Works* - The Department of Public Works of the City of Black Jack, Missouri.

*Development* - All structures and other modifications of the natural landscape, above and below ground or water on a particular site.

*Director* - The Director of Public Works for the City of Black Jack, or designee.

*Easement* - A grant of one (1) or more of the property rights by a property owner to, and for the use by, the public, corporation, or another person or entity.

*Flag lot* - See "Lot, flag."

*Grade* - The datum or reference level for a point on the ground or the degree of inclination of a road or slope.

*Improvements* - Fixed works located on a lot or parcel including, without limitation, pavement, bridges, and culverts, water mains, fire hydrants, storm sewer facilities, sanitary sewer facilities, signs, survey monuments, landscaping, street lighting and other similar items.

*Land surveyor* - A registered land surveyor licensed to practice in the State of Missouri.

*Lot* - A parcel of land intended to be separately owned, developed, and otherwise used as a unit.

*Lot area* - The total horizontal area within the boundaries of a lot exclusive of any area designated for street purposes.

*Lot, corner* - A lot abutting two (2) or more streets at their intersection.

*Lot, double frontage* - A lot having frontage on two (2) nonintersecting streets.

*Lot, flag* - A lot having access provided to the bulk of the lot by a narrow corridor of property.

*Lot, irregular* - A lot that has less than the required minimum area, width or depth or a lot or parcel that exhibits a configuration which is detrimental to or inhibits reasonable access and egress to and from the street system.

*Lot, nonconforming* - A lot of record which fails to meet current applicable minimum size or dimensional standards of the zoning district in which such lot is located.

*Lot of record* - A lot which is a portion of a subdivision, the plat of which has been recorded in the office of the Recorder or other parcel lawfully established and officially recorded by deed; provided that such lot or parcel was of a size and dimension that met minimum requirements applicable at the time of its recordation or establishment.

*Lot width* - The measured width of a lot along the front setback.

*MDNR* - The Missouri Department of Natural Resources.

*Metes and bounds* - The method used to describe a parcel of land by bearings and distances.

*Minor subdivision* - See "Subdivision, minor".

*MoDOT* - The Missouri Department of Highways and Transportation.

*Monument* - A permanent land survey marker placed by a land surveyor in accordance with the current Standards of Missouri Board for Architects, Professional Engineers and Land Surveyors and Department of Natural Resources of the State of Missouri.

*MSD* - The Metropolitan St. Louis Sewer District.

*Off-site* - Premises not located within the property to be subdivided or developed, whether or not in the same ownership of the subdivider requesting approval of the subdivision or development.

*Owner* - A person, agent, firm, corporation or other organization having a legal or equitable interest in property.

*Pedestrian way* - Any designated pathway designed to separate pedestrian traffic from vehicular traffic or otherwise provide for pedestrian traffic circulation.

*Plat* - A scaled map, plan, or layout of a tract of land indicating the subdivision of said tract of land in accordance with the requirements of this subdivision code.

*Private street* - See "Street, private."

*Professional engineer* - A professional engineer licensed to practice in the State of Missouri.

*Recorder* - The Recorder of Deeds for St. Louis County, Missouri.

*Right-of-way* - A strip of land, either public or private, on which an irrevocable right-of-passage has been recorded for use of vehicles or pedestrians or both or for the placement of utilities and which meets the minimum prescribed width established by this subdivision code.

*Setback* - The required minimum horizontal distance between the closest point of an exterior wall of a building or any projection thereon and the applicable property line or right-of-way line within which no structure can be placed, unless otherwise provided for in the zoning ordinance.

*Sidewalk* - An improved pedestrian way, located within a street right-of-way or an easement along a street, designed to separate pedestrian traffic from vehicular traffic on such street.

*Sketch plat* - A two (2) dimensional depiction of a subdivision showing proposed layout of lots, streets and other surface improvements and meeting other requirements of this subdivision code.

*Slope* - The rate of deviation of the ground surface from the horizontal surface, as expressed in percentages.

*Street* - A public or private thoroughfare which affords the principal means of vehicular access to abutting property. The term includes all facilities which normally are found within a right-of-way. A street may be designated as a highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, court or other such terms, but shall not include a pedestrian way or an alley.

*Street, collector* - Collector streets function as secondary land service streets in that they move traffic from the major streets, which distribute traffic regionally, to minor streets, which distribute the traffic to individual lots, parcels, and uses within the subdivision, area, or neighborhood. Collector streets also may serve individual lots, parcels, and uses as a secondary or additional function.

*Street, cul-de-sac* - A minor residential or nonresidential street, one (1) end of which is closed, and consists of a circular turnaround.

*Street, major (arterial)* - A street so designated on the major highway plan adopted by the Commission, or otherwise designated for and utilized primarily for high vehicular speeds or for heavy volumes of traffic on a continuous route with intersections at grade.

*Street, minor* - Minor streets are exclusively land service facilities for access to abutting properties. These serve the local neighborhood and are in the form of a cul-de-sac or loop street(s) provided, however, that any combination of loop and cul-de-sac streets may be utilized without the streets being

the maximum fronting lots do not exceed the total which would be allowed within the provisions of the street specifications matrix. Loop streets are short independent streets which usually terminate along the same collector street of their origin. Cul-de-sac streets are short independent streets terminating in a circular turnaround.

*Street, private* - A street which has not been dedicated to public use and accepted for maintenance by the City of Black Jack.

*Structure* - Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground, including but without limitation, advertising signs, billboards, backstops for tennis courts, pergolas, radio towers, memorials and ornamental structures. The word "structure" includes the word "building".

*Subdivider* - A person, firm, corporation or other organization undertaking a development or subdivision.

*Subdivision* - Any one (1) or more of the following activities with respect to land: (1) the division or redivision of a tract of land into two (2) or more lots; or (2) the creation of a condominium; or (3) the consolidation of two (2) or more tracts of land into one lot; or (4) a boundary adjustment; or (5) the dedication or establishment of a street or right-of-way for use in conjunction with use or access to a tract of land.

*Subdivision association* - An organized association of owners that operates and maintains various common properties of a subdivision.

*Subdivision code* - This Subdivision Code of the City of Black Jack, Missouri.

*Subdivision, minor* - The division of land into not more than four (4) lots shall be classified as a minor subdivision provided:

- (a) That the proposed subdivision of land does not include an improvement within a street right-of-way, other than concrete sidewalks, landscaping, monuments, and water mains.
- (b) That the proposed subdivision of land does not include a provision for a public area or public facility.
- (c) That the proposed subdivision of land does not adversely affect the development of the parcel proposed for subdivision as well as the adjoining property.
- (d) That the proposed subdivision of land is not in conflict with any provision of the zoning ordinance or this subdivision code.

*Survey* - A depiction together with a metes and bounds description of a parcel, lot, subdivision or other continuous quantity of land prepared by a land surveyor.

*Trust indenture* - A recordable instrument by which common ground and improvements are held or maintained or through which assessments in a subdivision are levied for administration of specific maintenance obligations.

*USGS* - United States Geological Survey.

*Zoning district* - A district, established by the zoning ordinance, wherein certain use and development regulations apply to the land located within the district.

*Zoning Ordinance* - The Zoning Ordinance of the City of Black Jack, Missouri.

(Ord. No. 958, § 1, 1-20-09)

### ARTICLE III. - GENERAL REGULATIONS

Sec. 300. - Applicability.

- (a) The provisions of this subdivision code shall apply to each subdivision of land.
- (b) The plan requirements and design standards contained in this subdivision code, shall also apply to unsubdivided developments, except for construction of improvements on single-family and two-family residential lots.
- (c) Every proposed subdivision within the City of Black Jack shall be submitted to the commission for report and recommendation to the city council. The final plat of any subdivision shall not be entitled to be recorded in the office of the Recorder unless and until such a plat is approved in accordance with the provisions of this subdivision code.
- (d) The sale or transfer of land to or between adjoining property owners, where such sale does not create additional lots, shall comply with the boundary adjustment provisions contained in this subdivision code without the necessity of complying with the review procedures for preliminary and final subdivision plats.

(Ord. No. 958, § 1, 1-20-09)

Sec. 310. - Summary of subdivision review procedures.

The following identifies the steps in applying for and securing approval of any subdivision within the City of Black Jack. Subdividers are further referred to applicable procedures and requirements attending each step as set forth in this subdivision code.

Step 1: Preapplication conference (optional)

Step 2: Preliminary subdivision plat

Step 3: Subdivision improvement plans, guarantees and indentures

Step 4: Final subdivision plat.

(Ord. No. 958, § 1, 1-20-09)

### ARTICLE IV. - PREAPPLICATION CONFERENCE

Sec. 400. - Preapplication conference.

Before submitting a preliminary subdivision plat for a proposed subdivision, the subdivider may confer with the Director to discuss the proposal and applicable regulations. The purpose of the preapplication conference is to allow the subdivider to become familiar with applicable subdivision procedures and standards. Prior to or as part of the preapplication conference, the subdivider may submit a sketch plat of the proposed subdivision.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 410. - Sketch plat.

The sketch plat shall be drawn at a scale of not more than one (1) inch equals two hundred (200) feet. The sketch plat, and any accompanying documents, shall include the following information, which may be based on sources other than survey data:

- (a) Name, address and telephone number of the owner of record, subdivider (if different than the owner of record), professional engineer and/or land surveyor retained for preparing the sketch plat;
- (b) Acreage, existing and proposed zoning district classification of the proposed subdivision;
- (c) Identification and approximate location of all existing land uses and structures within the proposed subdivision to be retained or demolished and all land uses and structures within two hundred (200) feet of the proposed subdivision;
- (d) Existing and proposed trees or tree masses, including street trees;
- (e) Arrangement of all proposed lots and common ground;
- (f) All existing streets, rights-of-way, wet and dry weather water courses, and other significant physical features within the proposed subdivision and within five hundred (500) feet thereof;
- (g) Proposed location and width of streets, rights-of-way, pavements, alleys, and their relationship to the existing adjacent street system;
- (h) Direction of and approximate distance to nearest elementary, middle and high schools;
- (i) Proposed location of private access drives;
- (j) A rough sketch of the proposed site plan of the development;
- (k) Location and size of existing and proposed utility lines and easements;
- (l) The generalized drainage scheme, including proposed detention/retention facilities, showing contour intervals of five (5) feet or less;
- (m) The names of all owners of all properties adjoining the proposed subdivision as disclosed by the most recent St. Louis County Assessor's record; and
- (n) A north arrow and scale.

The Director shall review and evaluate the sketch plat as soon as practical. Following the review, the Director shall confer with the subdivider to discuss any matters that will assist the subdivider in preparing a preliminary subdivision plat. No fee shall be required for preapplication conferences and for the review of sketch plats.

In the case of any subdivision developed under any of the special procedures in the zoning ordinance, which requires submission of a site plan to the Commission for review or approval, a site plan required by the zoning ordinance shall include all the information required herein for a sketch plat and may be used therefor. A final development plan required by the zoning ordinance shall comply with all requirements of this subdivision code for a preliminary plat and may be used therefor.

(Ord. No. 958, § 1, 1-20-09)

#### ARTICLE V. - PRELIMINARY SUBDIVISION PLAT

#### Sec. 500. - Submission requirements.

A complete application for preliminary subdivision plat approval in a form established by the Director (preliminary subdivision plat application) shall be submitted to the Commission, along with a nonrefundable fee established by the City Council to defray the cost of processing the preliminary subdivision plat application. No preliminary subdivision plat application shall be processed until the preliminary subdivision plat application is complete and the required fee has been paid.

The following information shall be submitted in support of a preliminary subdivision plat application:

- (a) One completed and signed copy of the preliminary subdivision plat application along with the required fee;
- (b) Proof of ownership and/or authorization of the subdivider to act as an agent of the owner;
- (c) A copy of the most recent instrument conveying title to the land proposed to be subdivided from the office of the St. Louis County Recorder. Such instrument shall include the name of the grantor and the grantee, and the date and type of conveyance; and
- (d) Five (5) copies of the proposed preliminary subdivision plat on twenty-four (24) inch by thirty-six (36) inch paper, one (1) reduced to eight and one-half (8.5) inches by eleven (11) inches, and one digitized version of the preliminary subdivision plat, submitted in a format compatible with the City mapping software, for staff review. The preliminary subdivision plat shall be subject to and include the following:
  - (1) Drawn to a scale from one inch equals twenty feet ( $1" = 20'$ ) through one inch equals one hundred feet ( $1" = 100'$ ), so long as the scale is an increment of ten (10) feet.
  - (2) The name of the proposed subdivision, which shall be original and not a duplication of the name of any previously recorded subdivision or development in the City of Black Jack.
  - (3) Names and addresses of the owner, subdivider and professional engineer or land surveyor who prepared the plat.
  - (4) A vicinity map showing the relationship of the proposed subdivision to the surrounding area. The vicinity map shall cover an area within a radius of one mile of the proposed subdivision at a scale of one-inch equals two thousand feet ( $1" = 2,000'$ ). The vicinity map shall generally locate arterial streets, highways, railroads, and any significant landmarks which help to locate the subdivision.
  - (5) The approximate area of the proposed subdivision and the proposed lots therein stated in square feet, if less than one (1) acre in area, or to the nearest tenth ( $1/10$ ) of an acre, if one (1) acre or more in area, including a complete metes and bounds written description of the subdivision boundaries.
  - (6) Dimensions of:
    - A. The parcel or parcels to be subdivided,
    - B. Each proposed lot intended for sale or lease,
    - C. Proposed common ground.
  - (7) Existing and proposed contour data to indicate the slope and drainage of the entire subdivision and the high and low elevation points thereof. Contour data shall be in intervals of two (2) feet if the general slope across the subdivision is less than ten (10) percent and at vertical intervals of five (5) feet if the general slope is ten (10) percent or greater. Contour data shall extend one hundred and fifty (150) feet beyond the limits of the subdivision boundaries. USGS datum is required.

Delineation and widths of proposed streets and other rights-of-way, including radii of curves and turnarounds, any additional rights-of-way along existing streets as may be required by the City or any other public entity having jurisdiction, and indication of all rights-of-way proposed for dedication to the City or other public entity.

- (9) Setback lines, including side yard, rear yard, or property line setbacks associated with each proposed platted lot, in accordance with the applicable zoning district classification.
- (10) Easements, existing and proposed, showing locations, widths and purposes.
- (11) Identification and delineation of any buffer areas required by the zoning ordinance.
- (12) Identification and delineation of lots, streets and easements associated with all adjoining development, drawn to the same scale in dashed lines (or half-toned) for a distance of one hundred fifty (150) feet from the proposed subdivision.
- (13) The results of any tests made to ascertain subsurface soil conditions and water table.
- (14) The owners of record of land adjoining the proposed subdivision, including name, lot description, and St. Louis County Locator Number.
- (15) The existing and the proposed zoning district classification(s) of the proposed subdivision and that of the adjoining properties.
- (16) Proposed use of each lot within the proposed subdivision.
- (17) The location of all existing storm sewer, sanitary sewer, water mains, gas mains, or other underground utilities within the proposed subdivision, and the location of where off-site connections are proposed.
- (18) Location of the nearest fire hydrant.
- (19) Preliminary storm drainage system, designed in accordance with the requirements of the City of Black Jack and MSD and showing any proposed drainage swales, detention and retention areas, storm sewer pipes, culverts, and any other storm drainage (including any off-site improvements).
- (20) Preliminary layout of the sanitary sewer collection system, designed in accordance with the requirements of MSD and showing pipe sizes, manhole locations, approximate flow line elevations, lift stations, and any other pertinent sanitary sewer facilities necessary to service the proposed subdivision.
- (21) Identification of all utility providers servicing the proposed subdivision.
- (22) The delineation of Federal Flood Insurance Administration designated floodplain and floodway boundaries, if any.
- (23) Any proposed alteration, adjustment or change in the elevation or topography of any floodplain or floodway as designated on the Federal Flood Insurance Administration floodplain and floodway maps.
- (24) Delineation of plat phases and anticipated time schedule, if the proposed subdivision is to be constructed in phases.
- (25) The location and identification of species type of all existing trees having a trunk size of eight (8) inch caliper or greater. Identify which trees are to be lost or saved, and the approximate spread (drip line) of the trees that are to be preserved. All developments shall comply with the Tree Preservation and Restoration Ordinance of the City of Black Jack, Missouri (Chapter 25, Article II, of the City Code).
- (26) Other significant natural features such as rock outcroppings, sinkholes, and any other key natural features.

(27) Any proposed improvements to be made to a creek or other watercourse.

(28) The seal and signature of the professional engineer or land surveyor who prepared the plat.

(Ord. No. 958, § 1, 1-20-09)

Sec. 510. - Preliminary subdivision plat review procedures.

The Director shall review the preliminary subdivision plat application for conformance to the requirements of this subdivision code. If the preliminary subdivision plat application as submitted is incomplete, the submittal shall be returned to the subdivider to complete necessary requirements. Upon determination by the Director that the preliminary subdivision plat application is complete, the subdivider shall prepare and submit to the Commission fifteen (15) full-sized copies of the complete preliminary subdivision plat, one (1) copy reduced to eight and one-half (8.5) inches by eleven (11) inches, and one digitized version of the preliminary subdivision plat, submitted in a format compatible with the City mapping software.

The Director shall submit a report to the Commission for consideration. The report shall include comments of the Director, as well as comments of all agencies and City departments to whom the preliminary subdivision plat was referred for review.

After receipt of the Director's report, the Commission shall take action. Action by the Commission shall consist of one of the following:

- (a) Approval—The Commission may approve of the preliminary subdivision plat as submitted or approve of the preliminary subdivision plat with amendments.
- (b) Disapproval—The Commission may disapprove of a preliminary subdivision plat and the grounds for disapproval shall be made a matter of record.

The Director shall notify the subdivider in writing within fifteen (15) business days of the Commission's action.

Whenever a preliminary subdivision plat includes a proposed establishment of common ground, and the Commission finds that such common ground is not suitable for common ground due to terrain, benefit to a small portion of the lot owners, difficulty of maintenance or any similar reason, the Commission may either refuse to approve such an establishment, or it may require the rearrangement of the lots in the proposed subdivision to include such land.

In the case of any subdivision developed under any of the special procedures in the zoning ordinance, which special procedures require submission of development plans to the Commission for review or approval, a final development plan required by the zoning ordinance shall include all the information required herein for a preliminary plat and may be used therefor.

(Ord. No. 958, § 1, 1-20-09)

Sec. 520. - Effect and approval of preliminary subdivision plat and period of validity.

- (a) Approval of the preliminary subdivision plat by the Commission constitutes authorization for the subdivider to proceed with preparation of the improvement plans and related documentation.
- (b) The preliminary subdivision plat shall be valid for a period of two (2) years from the date of Commission approval. In the case of phased developments, the period of validity for the first phase shall be two (2) years. Thereafter, application for final plat approval of subsequent phases shall be

submitted to the Director within one year after recording the previous phase. In no case shall any portion of a preliminary subdivision plat for a phased development be valid for more than three (3) years. The time periods set forth in this paragraph may be extended for such longer period as the Commission may determine to be advisable.

- (c) In the event the period of validity of Commission approval has expired, a resubmission of the preliminary subdivision plat shall be required.

(Ord. No. 958, § 1, 1-20-09)

## ARTICLE VI. - SUBDIVISION IMPROVEMENT PLANS

### Sec. 600. - Purpose.

After approval of a preliminary subdivision plat and prior to or concurrently with the submittal of a final subdivision plat application, the subdivider shall submit detailed construction plans, to be known as subdivision improvement plans, in accordance with the requirements of this article. Under no circumstances shall subdivision improvement plans be reviewed or approved until the Commission has approved the preliminary subdivision plat.

Subdivision improvement plans shall consist of working drawings and design specifications upon which consideration of the subdivision improvements shall be based. Subdivision improvement plans should provide the Commission and the Director with complete and sufficient design and construction information to permit evaluation of the quality and completeness of the proposed engineering design, site and landscape planning, determination of compliance with applicable regulations of the City, and establishment of a construction schedule for the proposed subdivision. All engineering related plans and specifications shall be prepared, signed and sealed by a professional engineer.

(Ord. No. 958, § 1, 1-20-09)

### Sec. 610. - Submission requirements.

Except as otherwise required herein, the subdivision improvement plans shall be drawn at any scale from one inch equals twenty feet (1" = 20') to one inch equals one hundred feet (1" = 100') in any increments of ten (10) feet, on one (1) or more sheets not greater than thirty-six (36) inches by forty-two (42) inches in size which shall include a north arrow, scale, date, and revision date block on each sheet.

Specific submission requirements include the following materials:

- (a) *Title page and index sheet.* The title page shall include the proposed name of the subdivision and show the name, address and telephone number of the subdivider and the professional engineer who prepared the subdivision improvement plans. If the set of subdivision improvement plans contains more than five (5) sheets, not including the title page, an index sheet shall also be provided.
- (b) *Key map.* If the subdivision is to be built in phases, the subdivision improvement plans shall provide a key map, showing the general layout of the entire subdivision with the applicable phase highlighted.
- (c) *Vicinity map.* The vicinity map shall cover an area within a radius of one mile of the proposed subdivision at a scale of one-inch equals two thousand feet (1" = 2,000'). The vicinity map shall generally locate arterial streets, highways, section lines, railroads, schools, parks, and other significant community facilities. The vicinity map may be incorporated into the subdivision improvement plan drawings.

- (1) Existing and proposed contours shown at intervals of not more than two (2) feet. Additional spot elevations may be required by the Director. USGS datum shall be used with benchmarks shown on the subdivision improvement plans. Existing contours shall be extended a minimum of one hundred fifty (150) feet beyond the boundaries of the proposed subdivision.
- (2) Existing topographic features, including but not limited to pavements, curbs and gutters, buildings and trees to be preserved (caliper, approximate spread and drip line and species type).
- (3) Area of the proposed subdivision and the proposed lots therein stated in square feet, if less than one (1) acre in area, or to the nearest one-tenth (1/10) of an acre if one (1) acre or more in area, including a complete metes and bounds description of subdivision boundaries.
- (4) Proposed site design including streets with proposed street names, lot lines, utility access and service easements, land use and land proposed to be reserved or dedicated for public uses.
- (5) Setback and buffer lines in conformance with the zoning ordinance.
- (6) Natural features within and adjacent to the proposed subdivision including drainage channels, bodies of water, wooded areas, and other significant features. On all watercourses leaving the proposed subdivision, the direction of flow shall be indicated, and for all watercourses entering the proposed subdivision, the approximate drainage area and watershed name above the point of entry shall be noted.
- (7) Storm drainage analysis showing drainage data for all watercourses or drainage ways entering and leaving the subdivision.
- (8) Designation of any portion of property within the 100-year floodplain, based upon calculations recognized by the Federal Flood Insurance Administration and the Director as the most recent and accurate available from the U.S. Army Corps of Engineers.
- (9) Public facilities existing or to be located in the subdivision boundaries or within one hundred fifty (150) feet surrounding the proposed subdivision including streets, bridges, culverts, utility lines, pipelines, power transmission lines, water hydrants, all easements, park areas, structures and other public structures and facilities.
- (10) City and County corporate limit lines, section lines, and other significant information relative to political subdivisions or to the USGS Survey System.
- (11) Names of adjacent subdivisions and owners of adjoining parcels of unsubdivided land with the plat book and page number or instrument identifying each subdivision or tract and St. Louis County Locator Number.
- (12) Exact boundary lines of the proposed subdivision indicated by a heavy line giving dimensions and all bearings.
- (13) Identification of all utilities serving the subdivision.
- (14) North arrow and graphic scale.
- (e) *Plans and profiles.* Plans and profiles for streets, sanitary sewers and storm sewers shall be drawn at a scale of one inch equals fifty feet (1" = 50') horizontal and one-inch equals ten feet (1" = 10') vertical, or as otherwise approved by the Director.
- (f) *Streets and sidewalks.* Typical street cross-sections shall be shown with complete dimensions and construction information. Street profiles showing existing and proposed elevations at stations located at fifty (50) foot intervals on the center line and at a point twenty-five (25) feet from the proposed street right-of-way on a line drawn perpendicular to each station along the center lines of all roads. Street profiles shall be drawn at a horizontal scale of fifty (50) feet to the inch and a vertical scale of

ten (10) feet to the inch, or as otherwise approved by the Director. Such profiles shall be prepared by a professional engineer. Streets shall be constructed in accordance with specifications set forth in Section 825 of this subdivision code.

- (g) *Utility plans.* Utility plans shall indicate public and private water and sewer facilities, lines, valves, pumps, fire hydrants, pump stations, and treatment which shall be designed to conform to the development standards for water and sewer services as adopted by the local water company and MSD, and shall include:
  - (1) Sanitary sewer plans. Sanitary sewer plans shall show the alignment of all sewer mains, manhole locations, and proposed easement locations and dimensions. Specific drawing information shall be in accordance with the requirements of MSD.
  - (2) Water distribution. Water distribution plans shall show the alignment of all water mains, location of valves and fire hydrants, and proposed easement locations and dimensions. Specific drawing information shall be in accordance with the requirements of the local water company and the applicable fire department.
  - (3) Street lighting plans. The street lighting plans shall show the location of proposed street lights and indicate the type of light standards, fixtures, and rated output (lumens) of the light sources.
  - (4) Other utility plans. Other utility plans shall show proposed locations of any utilities including easements. Drawing information requirements for other utilities (e.g., electric, gas, telephone, cable television, etc.) shall be in accordance with the requirements of the applicable utility company.
- (h) *Grading, storm drainage and erosion control plans.*
  - (1) Grading plans shall include:
    - A. Existing and proposed contours shall be shown at intervals of not more than two (2) feet. Existing contours shall be extended a minimum of one hundred fifty (150) feet beyond the boundaries of the proposed subdivision. Additional spot elevations shall be provided as necessary to accurately determine existing site elevations. Existing contours and spot elevations shall be based on actual field survey data. USGS datum shall be used with one (1) or more benchmarks shown, in or near the proposed subdivision, to which the development is referenced. Also indicate existing and proposed elevations at buildings, walks, drives and streets;
    - B. Location and description of any geological features which may affect the use of the proposed subdivision (e.g., sink holes, subsurface rock, high water table, or other significant geological features);
    - C. Description of soil types, based on soil test borings;
    - D. Location and estimated quantities of excavation and fill;
    - E. Density of proposed fill material (from on-site or off-site);
    - F. Identification of all cleaning and grubbing, including removal of existing Structures or other existing Improvements;
    - G. Identification of any significant trees (having a trunk size of eight (8) inch caliper or greater) that are required to be saved as a condition of the preliminary subdivision plat approval and those that are designated to be preserved by the subdivider, and indicating the approximate spread of such trees that are to be preserved;
    - H. Location and details of all retaining walls, cribbing, or other surface protection features;

- I. Location of any underground utility lines, any part of which is within fifty (50) feet of a proposed excavation or filling area;
  - J. Location of construction site access and temporary off-street parking and staging areas; and
  - K. Estimated schedule of operation, including a timeline schedule of starting and completion of grading work, erosion and siltation control, and any interim storm drainage systems.
- (2) Storm drainage plans shall include all storm drainage facilities and proposed easement locations and dimensions. Specific drawing information shall be in accordance with the requirements of MSD.
  - (3) Erosion/siltation control plans shall include details of any required temporary and long-term soil stabilization measures to be taken and by MSD as applicable to storm drainage facilities.
  - (4) If construction activities will disturb land or entail the grading of an area that is five (5) acres or greater, a land disturbance permit shall be obtained from MDNR.
  - (5) All developments shall comply with the requirements of Chapter 7.5 (Erosion, Grading and Sediment Control) of the City Code. In the event of a conflict between the provisions of this subsection and the provisions of Chapter 7.5 of the City Code, the more restrictive or higher standard shall apply.
- (i) *Other miscellaneous plans.*
    - (1) Landscape plans. A landscape plan shall be submitted by the subdivider for review by the Director and approval by the Commission prior to submitting the proposed final subdivision plat. The landscape plan shall contain types, sizes, and locations of all proposed and existing plant materials.
    - (2) Flood plain analysis. Where a portion of a proposed subdivision is known or suspected to be flood prone, and the Federal Flood Insurance Administration map or other similar sufficient information is not available, an engineering analysis shall be required. Such analysis shall be performed by a professional engineer and shall determine the 100-year flood plain line. Regardless of the method of determination, the 100-year flood plain line shall be clearly and legibly drawn on the grading and excavation plan and on the final subdivision plat.
    - (3) Cost estimates. The subdivision improvement plans shall be accompanied by cost estimates for all site preparation and construction of improvements, in sufficient detail for verification and approval by the Director and identifying any reference sources of costs used in preparing the cost estimates, or the source of the cost estimate (e.g., if prepared by a utility company to be contracted to install certain improvements).
    - (4) Evidence of review by others. Subdivision improvement plans shall provide written statements from (or correspondence from the subdivider to) the following agencies indicating that the subdivision improvement plans have been submitted for determination of compliance with their respective standards:
      - A. MSD;
      - B. MoDOT, if access to the subdivision is to be from a state highway;
      - C. St. Louis County Department of Highways and Traffic, if access to the subdivision is to be from a County arterial road;
      - D. MDNR;
      - E. U.S. Army Corps of Engineers; and
      - F. Other agencies having review authority over any element of the proposed subdivision

(Ord. No. 958, § 1, 1-20-09)

Sec. 620. - Review procedures.

- (a) *Submission by the subdivider.* After approval of the preliminary subdivision plat by the Commission, the subdivider shall submit five (5) copies of the subdivision improvement plans and other information required under this article to the Director. It shall be the subdivider's responsibility to provide copies of applicable subdivision improvement plans to the other reviewing agencies and utilities.
- (b) *Staff review.* As soon as practical after receipt of the subdivision improvement plans, the Director shall distribute copies of the applicable documents to the City Attorney and other City staff as appropriate. The Director, with the input of other City staff shall review the subdivision improvement plans and shall:
  - (1) Determine compliance with the approved preliminary subdivision plat and compliance with the requirements of this subdivision code and other applicable City regulations; and
  - (2) Verify accuracy of information provided, including cost estimates.
- (c) *Evidence of approval by other agencies and utilities.* The subdivider shall provide evidence to the Director of the approval or agreement to install improvements, from all reviewing agencies/utility companies, including payment of any required inspection fees.
- (d) *Director approval.* Upon determination by the Director that the subdivision improvement plans satisfy the requirements of this subdivision code, the Director shall submit a report to the Commission for consideration. The report shall include comments of the Director, as well as comments of all agencies and City departments to whom the subdivision improvement plans were referred for review.
- (e) *Commission approval.* After receipt of the Director's report, the Commission shall take action. Action by the Commission shall consist of one (1) of the following:
  - (1) Approval—The Commission may approve of the subdivision improvement plans as submitted or approve of the subdivision improvement plans with amendments.
  - (2) Disapproval—The Commission may disapprove of the subdivision improvement plans and the grounds for disapproval shall be made a matter of record.

The Director shall notify the subdivider in writing within fifteen (15) business days of the Commission's action.

(Ord. No. 958, § 1, 1-20-09)

Sec. 630. - Effect of approval of subdivision improvement plans and period of validity.

Approval of the subdivision improvement plans shall be valid for a period of two (2) years from the date of approval, or for such longer period as the Commission may determine to be advisable. Any request for an extension shall be filed in writing with the Director prior to the expiration of approval. If construction has not been commenced within the two (2) year period or such longer period as the Commission may permit, the approval shall be void.

(Ord. No. 958, § 1, 1-20-09)

Sec. 640. - As-built plans.

For subdivisions in which a construction deposit and guarantee are not provided, all required improvements must be installed, but before application for a final subdivision plat approval, the subdivider shall submit as-built plans of the improvements to the Director.

(Ord. No. 958, § 1, 1-20-09)

Sec. 650. - Completion deposits and maintenance guarantees.

- (a) *Improvement guarantee.* After the improvement plans have been approved and all inspection fees paid, but before approval of the final subdivision plat, the subdivider shall guarantee the completion of improvements required by the approved subdivision improvement plans and guarantee the maintenance of such improvements as required herein by either:
- (1) Completing the improvements in accordance with the approved subdivision improvement plans under the observation and inspection of the appropriate inspecting agency and establishing a maintenance agreement and providing a deposit to guarantee maintenance of such improvements as required herein; or
  - (2) Depositing cash or an irrevocable letter of credit under a deposit agreement with the City of Black Jack to guarantee the construction, completion, and installation of the improvements shown on the approved subdivision improvement plans within the improvement completion period approved by the Commission which shall not exceed two (2) years or such longer period as the Commission may permit ("construction deposit"), and depositing cash or an irrevocable letter of credit under a deposit agreement with the City of Black Jack to guarantee maintenance obligations of such improvements as required herein ("maintenance deposit").

For plats approved after the effective date of this section, no guarantee or deposit is required with the City of Black Jack for sanitary and storm sewers within the jurisdiction of MSD if MSD confirms that its requirements for assurance of completion are satisfied. This provision shall not affect the intent or enforcement of any existing guarantee, escrow, or renewal, extension or replacement thereof.

The Director may require any specific improvement to be installed prior to approval of the final subdivision plat where failure to install such improvement prior to further development could result in damage to the site or surrounding properties.

- (b) *Deposit options.* Deposits required by this section shall be in conjunction with a deposit agreement and may be in the form of cash or letter of credit as follows:
- (1) Cash deposited with the City Clerk to be held in an interest bearing account dedicated for that purpose, with all interest accruing to the City to offset administrative and other costs of maintaining the cash deposits;
  - (2) An irrevocable, standby letter of credit drawn on a local financial institution acceptable to and in a form approved by the City Attorney and Director. The instrument may not be drawn on any financial institution with whom the subdivider or a related entity has any ownership interest or with whom there is any joint financial connection that creates any actual or potential lack of independence between the institution and the subdivider. The letter of credit shall provide that the issuing institution will pay on demand to the City such amounts as the City may require to fulfill the obligations herein and may be reduced from time to time by a writing of the Mayor. The letter of credit shall be irrevocable for at least one (1) year and shall state that any balance remaining at the expiration thereof shall automatically be deposited in cash with the City Clerk, unless a new letter of credit is issued and agreed to by the City prior to such expiration or the City issues to the institution a written release of the obligations for which the letter of credit was deposited. The subdivider shall pay a nonrefundable fee of two hundred dollars (\$200.00) to the

City with submission of a letter of credit, and one hundred dollars (\$100.00) for any amendment or extension thereto, to partially reimburse the City's administration and review costs in accepting and maintaining such letter of credit.

- (c) *Deposit amount.* The amount of the deposit required by this section shall be calculated as follows:
- (1) Construction deposit. The construction deposit required of subdivider establishing a deposit agreement pursuant to subsection (a)(2) above shall be, in addition to the separate maintenance deposit sum, in the amount of one hundred and ten (110) percent of the Department's estimate of the cost of the construction, completion and installation of the required improvements. The Director shall adopt, to the extent practical, schedules reflecting current cost estimates of typically required improvements.
  - (2) Maintenance deposit. The maintenance deposit required of a subdivider pursuant to subsections (a)(1) and (a)(2) above for maintenance obligations shall be in the amount of ten (10) percent of the Department's estimate of the cost of the construction, completion and installation of the required improvements. The maintenance deposit shall be established by cash sum or submission of a separate letter of credit.
  - (3) Where certain improvements are required to be installed prior to approval of the record plat pursuant to subsection (a) above, the gross deposit amount for the construction deposit, but not the maintenance deposit, shall be reduced by the estimated cost of such improvements.
- (d) *Deposit agreements: Releases.* The deposit agreement to be entered into with the City of Black Jack shall require the subdivider to agree to fulfill the obligations imposed by this section and shall have such other terms as the City Attorney may require consistent with this section. The agreement shall authorize the Mayor to release the cash or reduce the obligation secured under the letter of credit as permitted herein. Such releases or reductions may occur upon completion, inspection, and approval by the Director of all required improvements within a category of improvements, or may occur from time to time, as work on specific improvements is completed, inspected and approved, provided, however that:
- (1) Releases; general. The Mayor shall release the cash or letter of credit as to all or any part of the subdivider's obligation only after construction, completion and installation of some phase of work on the improvements indicated on the approved subdivision improvement plans, receipt of requisite written notification from the appropriate inspecting public authority, and approval by the Director and only in the amounts permitted hereunder;
  - (2) Extension of completion period. If, at the end of the improvement completion period, all the improvements shown on the approved subdivision improvement plans have not been completed, the subdivider may request, and the Director may grant, an extension to the improvement completion period for a period of up to one (1) year if after review by the Director such longer period is deemed necessary to facilitate adequate and coordinated provisions for transportation, water, sewage, schools, parks, playgrounds, or other public improvements, facilities, or requirements so long as all guarantees are extended and approved by the City Attorney; provided that the Director may require as a condition to the extension, execution of a new deposit agreement, recalculation of deposit amounts, or satisfaction of new code requirements or other reasonable conditions as may be needed to ensure that the extended deposit agreement fully complies with the terms of this section;
- (3)

Construction deposit releases. After an inspection and approval by the Director of any specific improvements, the Mayor shall release ninety-five (95) percent of the original sum deposited for the construction of such specific required improvements. Irrespective of any prior releases that may be authorized by the Mayor after completion of any component of the guaranteed improvements (i.e. less than all of the improvements in a given category), the remaining amount held for any category of improvements for the entire subdivision shall be released within thirty (30) days of completion of all the improvements in such category of improvement, minus a retention of five (5) percent which shall be released only upon completion of all improvements for the subdivision. The Director shall establish the improvement categories, which may consist of improvement components or line items, to be utilized for calculation of deposit amounts, but such categories, components, and line items shall in no way modify or reduce the subdivider's guarantee as to all required improvements, irrespective of any release or completion of any category, or underlying component or line item. All improvements in a category shall be deemed complete only when:

- A. Each and every component and line item within a category for the entire subdivision has been constructed and completed as required,
- B. The subdivider has notified the Director in writing of said completion and requested an inspection, which notice shall include construction deposit details including the amount of the original deposit for each category, component and line item,
- C. The subdivider delivers an as-built drawing showing the completed improvements,
- D. The subdivider delivers evidence of acceptance by any third-party governmental entity or utility legally responsible for the maintenance of a completed improvement in the event such requested release relates to such improvement,
- E. The subdivider is not in default or in breach of any obligation to the City under this section, including, but not limited to, the Director's demand for maintenance or for deposit of additional sums for the subdivision, and
- F. The inspection has been completed and the results of the inspection have been approved in writing by the Director.

Releases of the maintenance deposit amounts shall be as provided elsewhere in this section for maintenance deposits.

- (4) Effect of release; continuing obligations. The subdivider shall continue to be responsible for defects, deficiencies and damage to public streets and other required improvements during development of the subdivision. No inspection approval or release of funds from the construction deposit as to any component or category shall be deemed to be City approval of improvements or otherwise release the subdivider of its obligation relating to the completion of the improvements until the final subdivision release on all improvements and maintenance is issued declaring that all improvements have in fact been constructed as required. Inspection and approval of any or all required improvements shall not constitute acceptance of the improvements by the City as a public improvement for which the City shall bear any responsibility.
  - A. Deficient improvements. No approval of required improvements shall be granted for improvements that fail to meet the specifications established herein or otherwise adopted by the City.

Final construction deposit release. Upon final inspection and approval of all required improvements, the remaining amount of the construction deposit shall be released within thirty (30) days after such approval.

(e) *Maintenance guarantee.*

- (1) Scope and duration. Upon commencement of installation of the required improvements within the subject subdivision, the subdivider shall be responsible for the maintenance of the improvements, including undeveloped lots, streets, sidewalks, common areas, and storm and drainage facilities, until the later of:
  - A. The expiration of eighteen (18) months after acceptance for public dedication of the specific improvement by the City, or
  - B. The expiration of eighteen (18) months after occupancy permits have been issued on ninety-five (95) percent of all of the lots in the subdivision plat(s) subject to the deposit agreement.

Maintenance shall include repair or replacement of all defects, deficiencies, and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan), and street de-icing and snow removal. All repairs and replacements shall comply with City specifications and standards. Any maintenance on improvements accepted by the City for public dedication shall be completed under the supervision of and with the prior written approval of the Director. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected, deposit released, and accepted by the governing body of the governmental entity for dedication. Irrespective of other continuing obligations, the subdivider's street de-icing and snow removal obligations shall terminate on the date a street is accepted by the City for public maintenance.

(2) Maintenance deposit; amount; use.

- A. The maintenance deposit shall be retained by the City to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of subsection (f) below and other remedies of this subdivision code, shall be subject to the immediate order of the Director to defray or reimburse any cost to the City of maintenance or repair of improvements related to the subdivision which the subdivider fails or refuses to perform. Such costs shall include off-site damage caused by deficiencies in the improvements or failure of maintenance. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Director shall provide the subdivider with a written demand and reasonable opportunity to perform the maintenance before having such maintenance performed by the City. The Director shall have the authority to require the maintenance deposit to be replaced or replenished by the subdivider in any form permitted for an original deposit where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the City for maintenance.
- B. In determining the amount of maintenance deposit that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The

discretion, after inspection of the improvements, that the total maintenance amount retained is clearly in excess of the amount necessary for performance of the remaining maintenance obligation, after all reasonable contingencies are considered.

- C. Final maintenance deposit release. Upon expiration of the maintenance obligations established herein, the Director shall cause a final inspection to be made of the required improvements. The Mayor shall then cause the maintenance deposit to be released if there are no defects or deficiencies found and all other obligations are shown to be satisfied on inspection thereof, or at such time thereafter as any defects or deficiencies are cured with the permission of, and within the time allowed by, the Director. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages caused by any construction, improvement, or development for which any deposit has been released.

(f) *Failure to complete improvements.* The obligation of the subdivider to construct, complete and install the improvements indicated on the approved subdivision improvement plans shall not cease until the subdivider shall be finally released by the Director. If, after the initial improvement completion period, or after a later period as extended pursuant to this section, the improvements indicated on the approved subdivision improvement plans are not constructed, completed, installed, and accepted, or if the subdivider shall violate any provision of the deposit agreement as determined by the Director, the Director shall notify the subdivider to show cause within not less than ten (10) days why the subdivider should not be declared in default. If the subdivider fails to cure any default or present a compelling reason why no default should be declared, the Director shall declare the subdivider in default and may take any one (1) or more of the following acts:

- (1) Deem the balance under the deposit agreement not theretofore released as forfeited to the City of Black Jack, to be then placed in an appropriate trust and agency account subject to the order of the Director for such purposes as letting contracts to bring about the completion of the improvements indicated on the approved subdivision improvement plans or other appropriate purposes in the interest of the public safety, health, and welfare; or
- (2) Require the subdivider to submit an additional cash sum or letter of credit sufficient to guarantee the completion of the improvements indicated on the approved subdivision improvement plans after recalculation in order to allow for any inflated or increased costs of constructing improvements.

(g) *Other remedies for default.* If the Director determines that forfeiture of the remaining deposit balance under subsection (f)(1) above will not allow completion of the required improvements and if the subdivider fails to comply with the Director's requirements under subsection (f)(2) above, the Director may:

- (1) Suspend the right of anyone to build or construct on the undeveloped portion of the subdivision. For the purpose of this subsection, the undeveloped portion of the subdivision means all lots other than lots which have been sold for personal use and occupancy or are under bona fide contract for sale to any person for personal use or occupancy. The Director shall give the subdivider ten (10) days' written notice of an order under this subsection and shall record an affidavit of such notice with the office of the Recorder. If, within the ten (10) day period after notice is given, the Director is not convinced by compelling evidence that completion of the improvements is adequately assured and maintenance of streets assured as provided herein, the Director shall order construction suspended on the undeveloped portion of the subdivision. The

Recorder. Public notice of said order shall be conspicuously and prominently posted by the Director at the subdivision or lots subject to said order. The notice shall contain the following minimum language, which may be supplemented at the discretion of the Director:

A. If said notice is for a subdivision:

"THE DEVELOPER OF THIS SUBDIVISION, (NAME OF SUBDIVISION), HAS BEEN DECLARED IN DEFAULT BY THE CITY OF BLACK JACK DIRECTOR OF PUBLIC WORKS. NO DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER SHALL TAKE PLACE WITHIN THE LIMITS OF THIS SUBDIVISION UNTIL SUCH TIME AS THE CITY OF BLACK JACK DIRECTOR OF PUBLIC WORKS REMOVES THIS PROHIBITION. ANY DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER WHILE THIS PROHIBITION IS IN EFFECT IS ILLEGAL AND SHALL BE ENFORCED PURSUANT TO THE CITY OF BLACK JACK CODE OF ORDINANCES, AS AMENDED FROM TIME TO TIME."

B. If said notice is for a lot:

"THE DEVELOPER OF THIS LOT, (LOT NUMBER), HAS BEEN DECLARED IN DEFAULT BY THE CITY OF BLACK JACK DIRECTOR OF PUBLIC WORKS. NO DEVELOPMENT, CONSTRUCTION, BUILDING, OR DEMOLITION IN ANY MANNER SHALL TAKE PLACE WITHIN THE LIMITS OF THIS LOT UNTIL SUCH TIME AS THE CITY OF BLACK JACK DIRECTOR OF PUBLIC WORKS REMOVES THIS PROHIBITION. ANY DEVELOPMENT, CONSTRUCTION, BUILDING, OR DEMOLITION IN ANY MANNER WHILE THIS PROHIBITION IS IN EFFECT IS ILLEGAL AND SHALL BE ENFORCED PURSUANT TO THE CITY OF BLACK JACK CODE OF ORDINANCES, AS AMENDED FROM TIME TO TIME."

The suspension shall be rescinded in whole or in part only when the Director has determined that completion of the improvements is adequately assured in all or an appropriate part of the subdivision and a guarantee of public street maintenance provided; or

- (2) Suspend the rights of the subdivider, or any related entity, to construct structures in any development platted after the effective date of such suspension throughout the City of Black Jack. The Director shall give the subdivider ten (10) days' written notice of an order under this clause and shall record an affidavit of such notice in the office of the Recorder. If, within the ten (10) day period after notice is given, the Director is not convinced by compelling evidence that completion of the improvements is adequately assured and maintenance of streets assured as provided herein, the Director shall order construction suspended. The order shall be served upon the subdivider and a copy recorded in the office of the Recorder. The suspension shall be rescinded only when the Director is convinced that completion of the improvements is adequately assured.

(h) *Suspension of development rights.* From and after the effective date of this section, if a subdivider, or any related entity, has a subdivision development improvement guarantee that is in default, as determined by the Director, including any escrow under any prior version of this section:

- (1) The Director shall be authorized, but not be limited, to thereafter pursue the remedies of subsection (g) of this section; and
- (2) The rights of the subdivider, or any related entity, to receive approval, which approval shall include, but not be limited to, approval of any plat or deposit agreement for new or further development, shall be suspended. The suspension shall be rescinded only when the Director is convinced that completion of the improvements is adequately assured

- (i) *Additional remedies.* If any party fails to comply with any obligations of this section, the Director may recommend that the City Attorney take appropriate legal action and may also withhold any building or occupancy permits to subdivider or related entities until such compliance is obtained. The City shall also have the right to partially or wholly remedy a subdivider's deficiencies or breached obligations under this subdivision code by set-off of any funds or assets of the subdivider otherwise held by the City to the maximum extent permitted by law. Such set-off shall occur upon written notice of such event by the Director to the subdivider after the subdivider has failed to timely cure the deficiencies. It shall be deemed a provision of every deposit agreement authorized under this section, that the subdivider shall pay the City's costs, including reasonable attorney's fees, of enforcing such agreement in any event that the subdivider is judicially determined to have violated any provision herein or in such agreement.
- (j) *Financial institution.* No financial institution shall be eligible to provide a letter of credit hereunder unless approved in advance by the Director.
- (k) *Related entity.* For the purposes of this section, "related entity" has the following meaning: A subdivider is a related entity to another person if:
  - (1) Either has a principal or controlling interest in the other; or
  - (2) Any person, firm, corporation, association, partnership, or other entity with a controlling interest in one has a principal or controlling interest in the other.
- (l) *Transition.*
  - (1) Escrow agreements approved and provided under prior versions of this subdivision code shall continue to be enforceable in accordance with their terms and the provisions of the ordinance in effect at the time of their approval, and shall in addition be subject to the remedies provided in this section.
  - (2) Any extensions or replacements of any escrow agreements approved and provided under prior versions of this subdivision code shall be extended or replaced in accordance with the terms of this subdivision code.

(Ord. No. 958, § 1, 1-20-09)

Sec. 660. - Disclosure of responsibility for maintenance of improvements.

- (a) So long as there is a street not accepted by the City for maintenance within any subdivision, no person shall sell, or offer to sell, or advertise for sale, any dwelling unit or nonresidential property without disclosing to each prospective purchaser such purchaser's responsibility with respect to subdivision streets in the manner required by this article. For purposes of this section, "prospective purchaser" includes any person making inquiry of any responsible party with respect to purchase of a lot or dwelling unit.
- (b) The requirements for disclosure under this section shall be complied with by any subdivider, development corporation, lender, title company, real estate broker, corporation, agent, manager or management corporation, and each agent or employee of the foregoing to the extent of involvement in marketing of property for sale.

(Ord. No. 958, § 1, 1-20-09)

## ARTICLE VII. - FINAL SUBDIVISION PLAT

Sec. 700. - Submission requirements.

Prior to the expiration of the preliminary subdivision plat, a complete application for final subdivision plat approval, including a final subdivision plat signed by the subdivider and a professional engineer or land surveyor shall be submitted to the Department of Public Works. The application shall be in form established by the City (final subdivision plat application), along with a nonrefundable fee established by the City Council to defray the cost of processing the final subdivision plat application. No final subdivision plat application shall be processed until the final subdivision plat application is complete and the required fee has been paid.

The following information shall be submitted in support of any final subdivision plat application:

- (a) One (1) completed and signed copy of the final subdivision plat application along with the required fee.
- (b) Copy of deed establishing ownership and evidence that all parties having a mortgage or lien interest, including the owners, have properly signed the plat dedication.
- (c) Copy of title report.
- (d) Certificate showing there are no delinquent taxes, fees or assessments outstanding.
- (e) Copy of the trust indenture and warranty deed for common land conveyance, accompanied by a letter of compliance from an attorney and articles of incorporation and bylaws of any subdivision association.
- (f) Performance guarantee for the cost of any improvement which has not been completed at the time of submittal of the final subdivision plat application.
- (g) Maintenance guarantee as required by this subdivision code.
- (h) The original recorded easement required for any off-site public utility to be dedicated that is not located within the plat and not heretofore granted to the City.
- (i) Five (5) copies of the final subdivision plat on twenty-four (24) inch by thirty-six (36) inch sheets, one (1) reduced to eight and one-half inches (8.5") by eleven inches (11"), and one (1) digitized version of the final subdivision plat, submitted in a format compatible with the City mapping software, for staff review. The final subdivision plat shall be subject to the following:
  - (1) Drawn to a scale from one inch equals twenty feet (1" = 20') through one inch equals one hundred feet (1" = 100'), so long as the scale is an increment of ten (10) feet.
  - (2) The name of the proposed subdivision.
  - (3) Names and address of the owner, subdivider and the professional engineer or land surveyor who prepared the plat.
  - (4) A vicinity map showing the relationship of the subdivision to the surrounding community. The vicinity map shall cover an area within a radius of one (1) mile of the proposed subdivision at a scale of one-inch equals two thousand feet (1" = 2,000'). The vicinity map shall generally locate arterial streets, highways, railroads, and any significant landmarks which help to locate the subdivision.
  - (5) The approximate area of the subdivision and the proposed lots therein stated in square feet, if less than one (1) acre in area, or to the nearest one-tenth (1/10) of an acre, if one (1) acre or more in area, including a complete metes and bounds description of the subdivision boundaries.
  - (6) Location of the subdivision by USGS Survey System and political subdivisions, including section, town, range, township, county and state.
  - (7) Title, date of preparation, scale and north arrow.

- (8) All plat boundaries based on an accurate transverse, with all angular and linear dimensions shown. Error of closure of such boundary survey shall not exceed one (1) in ten thousand (10,000) (one-foot (1') for each ten thousand (10,000) feet of perimeter survey).
- (9) All blocks, lots, streets and alleys within or adjacent to the plat, all of which shall have all angular and linear dimensions given and all radii, internal angles, bearings, points of curvature, tangents, and lengths of all curves, so that no dimensions or data are missing which are required for the future location of any of the corners of boundaries of blocks, lots, or streets, as listed above. All dimensions shall be given to the nearest one hundredth (1/100) of a foot. True angles and distances shall be drawn to the nearest established official monuments, not less than three (3) of which shall be accurately described on the plat.
- (10) Accurate location of all survey monuments.
- (11) Dimensions of:
  - A. The land to be subdivided,
  - B. Each proposed lot intended for sale or lease, and
  - C. Proposed common ground.
- (12) Delineation and widths of proposed streets, alleys or other rights-of-way including radii curves, cul-de-sacs, and any additional rights-of-way along existing streets as may be required by the City or any other public entity having jurisdiction, indicating all rights-of-way proposed for dedication to the City or other public entity.
- (13) Setback lines, including side yard, rear yard, or property line setbacks associated with each proposed platted lot, in accordance with the applicable zoning district classification.
- (14) Easements, existing and proposed, showing locations, widths and purposes.
- (15) Identification and delineation of any buffer areas required by the zoning ordinance.
- (16) Identification and delineation of lots, streets, alleys and easements associated with all adjoining development.
- (17) The owners of record of land adjoining the subdivision.
- (18) The existing zoning district classification(s) of the subdivision and the adjoining properties, and the proposed zoning district classification(s) of the subdivision.
- (19) Proposed use of each lot within the proposed subdivision.
- (20) The delineation of Federal Flood Insurance Administration designated floodplain and floodway boundaries, if any.
- (21) Any proposed alteration, adjustment or change in the elevation or topography of any floodplain or floodway as designated on the Federal Flood Insurance Administration floodplain and floodway maps.
- (22) Identification of all utilities serving the subdivision.
- (23) The out-boundary of the subdivision shall be tied to the Missouri Coordinate System 1983 in accordance with the current Missouri Minimum Standards for Property Boundary Surveys, and the coordinates of the exterior corners shall be shown on the plat.
- (24) A certification by the professional engineer or land surveyor who prepared the plat, indicating that the final subdivision plat is a correct representation of all existing and proposed land divisions.

Sec. 710. - Final subdivision plat review procedures.

The Director shall review the final subdivision plat for compliance with the approved preliminary subdivision plat and other applicable requirements of this subdivision code. The Director shall distribute copies to other appropriate City personnel for review and comment. An incomplete final subdivision plat application shall be returned to the subdivider to complete necessary requirements. Upon determination by the Director that the final subdivision plat application is complete, the subdivider shall prepare and submit to the Commission fifteen (15) copies of the final subdivision plat, one (1) copy reduced to eight and one-half inches (8.5") by eleven inches (11"), and one (1) digitized version of the final subdivision plat, submitted in a format compatible with the City mapping software.

After receipt of the Director's report, the Commission shall take action. Action by the Commission shall consist of one (1) of the following:

- (a) Approval—The Commission may approve the final subdivision plat as submitted or approve the final subdivision plat with amendments.
- (b) Disapproval—The Commission may disapprove the final subdivision plat and the grounds for disapproval shall be made a matter of record.

In any case, the Director shall notify the subdivider in writing within fifteen (15) business days of the Commission's action and if approved, the Commission shall direct the Director to forward the final subdivision plat to the City Clerk for distribution to the City Council for final review.

(Ord. No. 958, § 1, 1-20-09)

Sec. 720. - Council review.

After receipt of the final subdivision plat from the Commission, the City Council shall take action on the final subdivision plat. City Council action shall consist of the following:

- (a) Approval—The City Council may, by majority vote, finally approve for the recordation of final subdivision plat as approved by the Commission or approve the final subdivision plat with amendments by two-thirds (2/3) majority vote; or
- (b) Disapproval—The City Council may disapprove the final subdivision plat. If the final subdivision plat is disapproved by the City Council, the subdivider may resubmit a new subdivision plat to the Commission in the manner described in this subdivision code.

In any case, the Director shall notify the subdivider in writing within fifteen (15) business days of the City Council's action.

(Ord. No. 958, § 1, 1-20-09)

Sec. 730. - Effect of final approval.

Approval of the final subdivision plat by the City Council shall confer upon the subdivider the right to record the approved final subdivision plat in the office of the Recorder. No lot within the subdivision may be sold until the final subdivision plat has been approved by the City Council and the final subdivision plat has been officially recorded. The subdivider shall file the approved final subdivision plat with the office of the Recorder within sixty (60) days of the date of final approval of the final subdivision plat by the City Council.

The subdivider shall provide the City with three (3) copies of the recorded final subdivision plat. The subdivider shall also provide the City with a digitized version of the plat, submitted in a format compatible with the mapping software used by the City.

(Ord. No. 958, § 1, 1-20-09)

Sec. 740. - Final subdivision plat expiration—Revocation of approval.

If the subdivider fails to record a final subdivision plat with the office of the Recorder within sixty (60) days from the date of final subdivision plat final approval, the City Council shall require the subdivider to explain extenuating circumstances preventing the recording of the final subdivision plat. If the City Council determines that an extension of time for recording would serve the best interest of the City of Black Jack, the City Council may grant one (1) extension for a period not to exceed sixty (60) days. If the City Council determines that an extension of time for recording would not serve the best interest of the City of Black Jack, the City Council shall formally revoke its final approval of the final subdivision plat and notify the subdivider and the office of the Recorder of such action.

(Ord. No. 958, § 1, 1-20-09)

Sec. 750. - Trust indentures.

- (a) In any case where the establishment of common land (including pedestrian walkways and cul-de-sac islands), private streets, street lighting, drainage facilities such as detention basins and drainage pipe and ditches or any other improvement that requires continuous maintenance, a trust indenture shall be recorded simultaneously with the recordation of the final subdivision plat. The trust indenture shall provide for proper maintenance and supervision by the trustees who are selected to act in accordance with the terms of such trust indenture and the applicable provisions of this subdivision code. For single lot developments and developments with no common ground, the Commission may accept script certifying the means of maintenance on the final subdivision plat. Common land shall be conveyed by the owner in fee simple absolute title by general warranty deed to trustees whose trust indentures shall provide that the common ground be used for the benefit, use, and enjoyment of the lot owners present and future and shall be the maintenance responsibility of the trustees of the subdivision and that no lot owner shall have the right to convey his or her interest in the common ground except as an incident of the ownership of a regularly platted lot.
- (b) Any trust indenture required to be recorded, or recorded for the purpose of compliance with provisions of this subdivision code or the zoning ordinance, shall provide for not less than the following representation of purchasers of developed lots among the trustees; one-third (1/3) of the trustees shall be chosen by purchasers of developed lots after fifty (50) percent of the lots have been sold; two-thirds (2/3) of the trustees shall be chosen by purchasers of developed lots after ninety-five (95) percent of the lots have been sold; and all of the trustees shall be chosen by purchasers of developed lots after all of the lots have been sold.
- (c) Where the provisions of such a trust indenture cannot be fulfilled by reason of unfilled vacancies among the trustees, the City Council may upon the petition of any concerned resident or property owner of the subdivision, appoint one (1) or more trustees to fill vacancies until such time as trustees are selected in accordance with the trust indenture. Any person so appointed who is not a resident or property owner within the subdivision shall be allowed a reasonable fee for his or her services by the order of appointment, which fee shall be levied as a special assessment against the property in the subdivision, and which shall not be subject to any limitation on special assessments contained in the

- (d) Each trust indenture and warranty deed shall be accompanied by a written legal opinion from an attorney licensed to practice in the State of Missouri, setting forth the attorney's legal opinion as to the legal form and effect of the deeds and trust indenture. The deeds and trust indenture shall be approved by the Director and the City Attorney prior to being filed with the Recorder of Deeds of St. Louis County simultaneously with the recording of the final subdivision plat.
- (e) The term of the trust indentures for all types of subdivisions, including planned districts and special procedures, shall be for the duration of the subdivision. In the event the subdivision is vacated, fee simple title shall vest in the then lot or unit owners as tenants in common. The rights of the tenants shall only be exercisable appurtenant to and in conjunction with their lot or unit ownership. No interest in the common land shall be conveyed by a lot or unit owner except in conjunction with the sale of a lot or unit. The sale of any lot or unit shall carry with it all the incidents of ownership of the common ground although such is not expressly mentioned in the deed; provided, however, that no right or power conferred upon the trustees shall be abrogated.

(Ord. No. 958, § 1, 1-20-09)

Sec. 760. - Subdivider's adherence to final subdivision plat and subdivision improvement plans.

Any subdivider who has submitted and obtained approval by the Commission for its subdivision improvement plans, as provided in Article VI of this subdivision code and has submitted and obtained approval by the City Council for its final subdivision plat, as provided in this Article VII, shall strictly adhere to the specifications and improvements as set forth in said subdivision improvement plans and final subdivision plat in the construction of the approved subdivision. Any deviation therefrom, which has not been previously approved, after review, by the Commission or City Council, as applicable, shall be considered a violation of this subdivision code. In addition to the penalties and other remedies authorized and established by this subdivision code, the Director shall refuse to issue any building or occupancy permits for buildings to be built within the subdivision or if built to be occupied until the subdivider has either altered the subdivision to conform to approved subdivision improvement plans and final subdivision plat or received approval of the Commission or the City Council, as applicable, for such deviation(s).

(Ord. No. 958, § 1, 1-20-09)

Sec. 770. - Acceptance and final approval.

Before the subdivider's obligation to the City is terminated, the subdivider shall submit as-built drawings of all completed required improvements and all required improvements shall be constructed under the observation and inspection of the inspecting agency and accepted for maintenance and given final approval by the City Council by ordinance. In the event a subdivision is being developed in phases, the City shall have no obligation to accept streets in a particular phase to the extent such streets provide access to another phase of the subdivision in which construction is not yet completed. Construction in a phase of a subdivision shall be deemed complete at such time that the City determines that the required subdivision improvements in said phase have been constructed in accordance with the subdivision improvement plans and occupancy permits on ninety-five (95) percent of all of the lots in such phase have been issued.

(Ord. No. 958, § 1, 1-20-09)

ARTICLE VIII. - DESIGN STANDARDS FOR LAND DEVELOPMENT

Sec. 800. - Purpose.

The purpose of the design standards for land development is to control subdivision activity to promote public safety, health and general welfare of the residents of the City of Black Jack. More specifically, these regulations are specifically designed to:

- (a) Provide for orderly growth and harmonious development of the City of Black Jack consistent with established policies and land use plans of the City.
- (b) Ensure the size, shape and orientation of building lots are designed to provide desirable building sites logically related to topography, natural features, streets, parking areas, common ground (if any), other structures, and adjacent land uses. Due regard shall be given to natural features such as large trees, unusual rock formations, watercourses, and sites with historical significance, scenic views, and similar assets, the preservation of which would add attractiveness and value to the subdivision.
- (c) Secure proper arrangement of streets for efficient traffic circulation through the coordination of existing and planned streets, comprehensive plan, public facilities and adjoining developed land.
- (d) Achieve lots of maximum utility and viability laid out and of size in harmony with existing and proposed development of the area.
- (e) Secure adequate provisions of water, drainage, and sanitary sewer facilities based upon City, state and federal requirements.
- (f) Provide ample and useable open space, recreation areas, and other public facilities, and ensure adequate access and linkages are provided for their use.

(Ord. No. 958, § 1, 1-20-09)

Sec. 810. - Design standard—compliance required.

The subdivision shall comply with all the standards contained in this subdivision code. In addition, the subdivision shall conform to the following:

- (a) Any approved master development plan or comprehensive plan for the City of Black Jack or applicable portions thereof, and
- (b) The zoning ordinance, building codes and all other portions of the City Code as applicable.

(Ord. No. 958, § 1, 1-20-09)

Sec. 815. - Lots.

The lot arrangement shall be such that in constructing a building according to the applicable zoning district standards of the zoning ordinance and the subdivision standards of this article, topography or other natural conditions will not create difficulties in placing the building, in constructing driveways with reasonable grades and in providing adequate yard areas. Acute angles created by side lot lines and odd shape lots shall provide for adequate easements and setbacks.

(a) *Generally.*

- (1) Every lot shall have access from a street accepted by the City of Black Jack or improved to the standards and specifications of the City of Black Jack.
- (2) Residential lots generally shall not open or face directly onto a major street or nonresidential developments.
- (3) Lot dimensions shall comply with the applicable zoning district standards identified in the zoning ordinance.

- (4) Residential lots shall conform to the following minimum width requirements:
- A. All lots containing an area of less than fifteen thousand (15,000) square feet shall have a minimum width at the required building line of seventy (70) feet.
  - B. All lots containing an area of fifteen thousand (15,000) square feet, but less than twenty-two thousand (22,000) square feet, shall have a minimum width at the required building line of eighty-five (85) feet.
  - C. All lots containing an area of twenty-two (22,000) square feet, but less than one (1) acre, shall have a minimum width at the required building line of one hundred (100) feet.
  - D. All lots containing one (1) acre, but less than two (2) acres, shall have a minimum width at the required building line of one hundred and twenty-five (125) feet.
  - E. All lots containing two (2) acres, but less than three (3) acres, shall have a minimum width at the required building line of two hundred and twenty-five (225) feet.
  - F. All lots containing three (3) acres, or more, shall have a minimum width at the required building line of three hundred (300) feet.

Notwithstanding the foregoing, the minimum width of lots at the required building line in subdivisions developed in a "C-8" Planned Commercial District under the zoning ordinance or in accordance with the Planned Environment Unit Procedure (PEU) under the zoning ordinance shall be as established in the ordinance authorizing the "C-8" Planned Commercial District or Planned Environment Unit Procedure. In no case shall the frontage of a lot measured along the right-of-way line be less than fifty (50) percent of the minimum lot width established in subsection (a)(4) above.

- (5) Side lot lines shall generally be perpendicular to street or right-of-way lines or radial to curved streets.
- (6) Double frontage lots shall be avoided, except where necessary to provide separation of the subdivision from a highway, major street, shopping center, industrial district, park, other similar nonresidential area, or as otherwise required by topography or similar concerns.
- (7) Double frontage lots shall provide primary vehicular access from the internal residential (local) street, unless it is impractical because of topography or similar concerns.
- (8) Double frontage lots shall provide a minimum ten (10) foot wide landscape buffer abutting the property line adjacent to the secondary street. Said buffer shall consist of a screening to include, but not limited to, a heavily landscaped earth berm, or a combination of a solid wall or decorative fence and evergreen planting of equivalent visual density or other effective means as determined by the Commission.
- (9) Where there is a question as to the suitability of a lot or lots for their intended use due to factors such as rock formations, soil conditions, steepness of terrain, flood conditions, or other adverse natural physical conditions, the Commission may, after adequate investigation, withhold approval of such lots until engineering studies are presented to the Commission which establish that the method proposed to meet any such condition is adequate to avoid any danger to health, life or lot improvements.

(b) *Corner lots.*

- (1) Corner lots shall have adequate width to permit the required setback lines from both streets.
- (2) Corner lots located at the intersection of a collector or major street, shall have driveway access from the residential (local) street, unless impractical because of topography or similar conditions.

intersecting streets.

(c) *Flag lots.* Flag lots shall not be permitted.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 820. - Blocks.

- (a) Blocks in a residential subdivision shall not exceed one thousand five hundred (1,500) feet in length, except as the Commission deems necessary to secure the efficient use of land or desired features of street layout. There shall be no restriction as to the maximum block length in a non-residential subdivision.
- (b) Blocks shall be of sufficient width to permit two (2) tiers of lots of appropriate depth, except where an interior street parallels a highway, major street, or railroad right-of-way.
- (c) The Commission may require a pedestrian way connecting adjacent streets or public areas, shopping centers, etc. Such pedestrian way shall be at least ten (10) feet in width and shall be dedicated to public use for pedestrian purposes only.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 825. - Streets.

The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and proposed streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets. The following standards shall apply:

- (a) *General standards.* These general standards shall apply to residential and nonresidential subdivisions.
  - (1) Every street, public or private, established after the effective date of this subdivision code shall be platted, designed, and built in accordance with the requirements of this subdivision code.
  - (2) Private drives providing access to parking areas associated with multiple-family developments, or road easements or cross-access easements associated with nonresidential developments shall not be required to meet the standards for street construction.
  - (3) Half-width streets shall be prohibited.
  - (4) The street layout shall be appropriate for the type of development proposed and properly integrated with the street system in the area adjoining the development.
  - (5) Residential streets shall be laid out to discourage through traffic, permit efficient drainage and utility systems, and provide convenient and safe access to lots.
  - (6) Residential streets shall interconnect with surrounding streets where determined to be necessary to permit the convenient movement and dispersion of traffic within the area and/or facilitate the access of emergency vehicles.
  - (7) Reserved strips of land which control or limit access at the terminus of streets are prohibited.
  - (8) Proposed through streets shall be extended to the boundary lines of the subdivision.
  - (9) All dead-end streets, proposed as through streets, shall be developed as cul-de-sac streets with a circular paved turnaround provided in accordance with this section.
  - (10) Streets shall intersect, as nearly as possible, at right angles, and no street shall intersect with another at less than seventy (70) degrees. Not more than two (2) streets shall intersect at any one (1) point.
  - (11) Street intersection jogs or discontinuities are prohibited with center line offsets of less than:

- A. One hundred (100) feet, when the intersected street is a minor or collector street, or
  - B. Three hundred (300) feet, when the intersected street is a major or collector street or highway.
- (12) Street rights-of-way shall not be placed adjacent to side or rear property lines of a lot or parcel in an established subdivision, except as is necessary to provide for future connections to adjoining unsubdivided tracts where deemed appropriate by the Commission. A minimum twenty (20) foot landscape buffer, established as common ground, shall be provided between the street right-of-way and the side or rear property lines of a lot or parcel in an established subdivision. Intersection roundings shall be exempt from this requirement.
  - (13) Additional traffic lanes or other widening, pavement thickness, drainage facilities, granular base, traffic control devices and other improvements may be required to accommodate increased traffic volumes projected to be generated by the subdivision, unsuitable soil conditions, steep grades or other conditions.
  - (14) Intersections shall be designed with grades as level as possible, consistent with proper provision for drainage. Approaches to intersections shall have a grade not exceeding three (3) percent for a distance of not less than one hundred fifty (150) feet measured from the centerline of the intersecting street.
  - (15) A tangent of less than two hundred (200) feet in length on major streets and one hundred (100) feet in length on collector streets shall be avoided between reverse curves.
  - (16) Any subdivision street platted along an existing street may be required to provide additional right-of-way, not to exceed twenty (20) feet on either side;
    - A. When a subdivision is located on one side of an existing street, required right-of-way width shall be provided measured from the centerline of the right-of-way as originally established or traveled. The centerline must meet the requirements of the Director with regard to radius when located on a curved roadway.
    - B. Additional right-of-way beyond twenty (20) feet may be required by the Commission.
  - (17) Additional right-of-way dedication may be required for future road construction, as determined by the Commission.
  - (18) The Commission may require a street to be dedicated for public use where deemed in the best interest of the traveling public to provide circulation.
  - (19) When streets are proposed to remain private, the subdivider shall be required to have either an indenture or statement on the final subdivision plat establishing the method of providing continuous maintenance of streets and storm sewers.
  - (20) Any public streets within a subdivision that are located within the floodplain shall be protected from flood damage as directed by the Director.
  - (21) A minimum radius of twenty (20) feet at street right-of-way intersection and a minimum radius of thirty-two (32) feet at the back of the curb or edge of the pavement shall be required. Greater radii may be required at the right-of-way intersection and back of curb or edge of pavement with a collector street as directed by the Director.
- (b) *Residential standards.* In addition to the above, the following shall apply for residential subdivisions:
- (1) All stub streets in excess of two hundred fifty (250) feet in length as measured from the centerline of the street intersection to the property line on the plat boundary shall be provided with a temporary cul-de-sac turnaround, with a circular pavement provided in accordance with

this section.

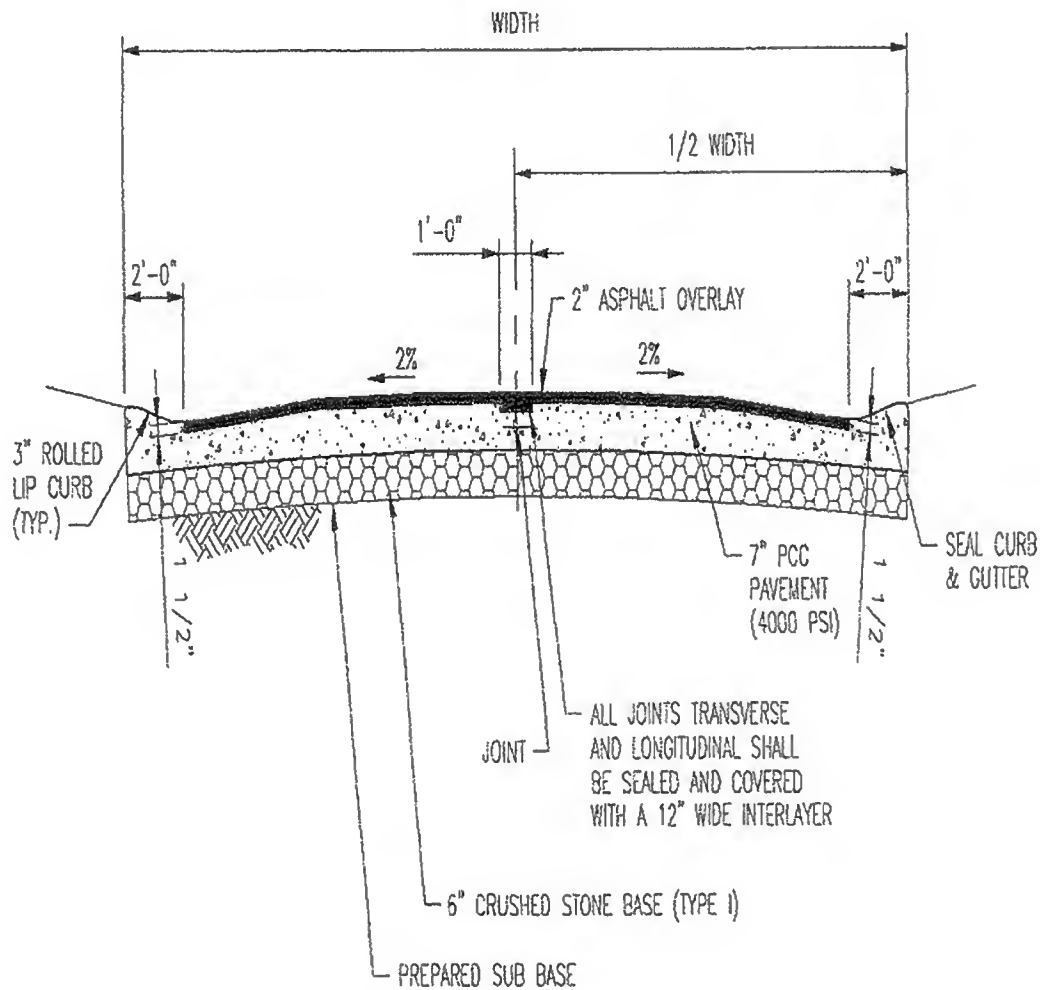
- (2) All stub streets, which have four (4) or more lots fronting upon the right-of-way, shall have a temporary cul-de-sac turnaround, with a circular pavement provided in accordance with this section.
  - (3) A street on which residential lots front and which parallels, but is not adjacent to, a railroad right-of-way shall be at a distance from the railroad right-of-way sufficient to provide lots with a minimum depth of one hundred sixty (160) feet. As used in this section, the term "parallels" refers to the general layout of the street and not to a specific alignment.
  - (4) A street right-of-way shall not be placed adjacent to any railroad right-of-way except as is necessary to accommodate an approved or future railroad crossing. A landscape buffer at least fifty (50) feet wide, designed as common ground, shall be provided between the street right-of-way as directed by the Director.
  - (5) The pavement width set forth for multiple family access streets does not allow for parking, nor will parking be permitted on such streets. For each parallel parking space adjacent to these streets an additional width of ten (10) feet shall be provided. Additional parking requirements shall be as provided herein and by the standards established by the Commission.
  - (6) When deemed necessary for public safety by the Commission, lots shall have a turnaround maneuvering area which eliminates having to back out onto collector or major streets.
- (c) *Street design standards.* Every subdivision shall be served by an adequate system of publicly dedicated or private streets meeting all City standards as specified herein. All such streets within any subdivision or segments of streets to be built as part of any development shall be located, platted and built in such a manner that they may be dedicated to the City in accordance with the standards defined in this subdivision code.
- (1) Table of street design specifications:

	Major Street	Collector Street	Minor Street	Alley
Minimum Right-of-way	76	60	40	<u>20</u>
Maximum Grade @ Centerline	8%	8%	8%	10%
Minimum Grade @ Centerline	1%	1%	1%	1%
Minimum pavement	64	48	26	<u>16</u>

width (Back to Back of curb)				
Minimum sight distance at crest or curb	200	<u>150</u>	<u>150</u>	<u>150</u>
Minimum horizontal radius of centerline	300	<u>150</u>	<u>150</u>	<u>150</u>
Minimum horizontal tangent distance between reverse curves	200	100	100	None
Curb and gutter	Vertical only	Vertical only	Vertical only	none

- (2) A road maintenance and improvement and utility easement of at least ten (10) feet in width must be provided on each side of all street rights-of-way.
- (3) Cul-de-sac turnarounds shall be provided at the end of all stub streets and permanent dead end streets. Cul-de-sac turnarounds shall have a minimum right-of-way diameter of ninety-two (92) feet, with a minimum pavement radius of thirty-five (35) feet. This subsection shall apply to stub streets in residential subdivisions only to the extent a temporary cul-de-sac turnaround is required for such streets by subsection (b) above.
- (4) Street pavement standards. All streets shall be graded and the roadway improved by paving. Street paving shall be in accordance with the specifications and standards set forth below. All grading and paving shall be done under the observation and inspection of the Director and shall be subject to his or her approval. The treatment of the intersection of any new street with a road under the jurisdiction of St. Louis County or MoDOT shall be subject to approval by the County Highway or District Engineer of the governmental body having jurisdiction over said road.

At such time as a subdivision is proposed adjacent to a street that is accepted and maintained by the City of Black Jack, that street shall be improved to handle the increased traffic due to said subdivision and the additional right-of-way and the cost of improvement of the right-of-way adjacent to the proposed subdivision shall be included in the overall subdivision improvements. Said street improvements shall be made in accordance with the specifications and standards set forth below:



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(d) *Street signs and street names.*

- (1) Proposed through or collector streets which are continuations of, or in general alignment with, existing named streets, shall bear the names of such existing streets within the City.
- (2) The name of a proposed street which is not in alignment with an existing street shall not duplicate the name of any existing or platted street within the City.
- (3) All names of streets proposed by the subdivider shall be approved by the St. Louis County Department of Revenue-Mapping Division and the Director prior to submitting the proposed final subdivision plat for review.
- (4) Street name signs shall be erected at all street intersections on diagonally opposite corners so that such signs normally will be on the right hand side of the intersection for traffic on the most heavily traveled street. Signs indicating both streets should be erected at each location mounted as close to the corner as practical, facing traffic on the cross street, with the nearest portion of each sign not less than one (1) foot nor more than five (5) feet back of the curb line.
- (5) The design, materials of construction and method of installation of street name signs shall conform to the current standards employed by the Department of Public Works for such work at the time of installation.

(e) *Street lights.*

- (1) Street lighting plan submission and review. The subdivider shall submit for review and approval such number of copies as requested by the Director of the approved preliminary subdivision plat indicating the location of light standards in compliance with the following (street lighting plan):
  - A. Illumination standards. Each lighting source shall have a height of not less than sixteen (16) feet above grade and shall have a minimum standard six thousand eight hundred (6,800) lumen output. Maximum initial illumination level five (5) feet from the base of the light source shall be no greater than three point zero-tenths (3.0) foot candles.
  - B. Street lights shall be provided at each intersection of a street within the subdivision, on street frontage between intersections, at each intersection of a street with a sidewalk or pedestrian way, at each circular turnaround, and within parking lot areas to comply with the provisions and regulations described herein.
  - C. On cul-de-sac streets, loop streets, and minor streets the maximum distance between street lights shall be three hundred twenty-five (325) feet. The maximum distance between street lights on collector streets shall be two hundred fifty (250) feet, and on major streets two hundred (200) feet.
  - D. Lighting shall be designed and maintained to avoid unnecessary illumination of residential interiors.
  - E. All energy sources supplying illumination shall be buried a minimum of eighteen (18) inches below grade. All piping and wiring to illumination sources shall be contained within the light standards or pole structure.

- F. All electric lighting shall be controlled automatically by programmed time devices, photoelectric cells, or the like. Street and residential lighting shall be on from dusk to dawn.
- G. Light standards shall not be located within three (3) feet of the street pavement. Where sidewalks are required, street light standards shall be located between the sidewalk and street pavement. Variation to this section may be approved by the Director.
- H. The subdivider shall submit to the Director a maintenance agreement, an indenture, or other similar instrument setting forth the person, corporation, trustees, or other agency responsible for the assessment as well as the collection of the monies necessary for the operation of the street lighting system within the subdivision.

- (2) Installation. All street lighting shall be installed and maintained in accordance with the approved street lighting plan.

(Ord. No. 958, § 1, 1-20-09)

Sec. 830. - Sidewalks and pedestrian.

- (a) *Sidewalks*. Sidewalks shall be required on both sides of all streets unless otherwise provided for in this subdivision code. The Commission may grant a variance in any of the following cases:

- (1) Where sidewalks are not deemed necessary for public safety or where topographical or other conditions make their installation and use impractical.
- (2) Where tracts of land are created having at least three hundred (300) feet of frontage which could be resubdivided into smaller lots at a future time.
- (3) Where the subdivision designer has submitted for review a proposed sidewalk plan that provides for more direct and safer movement of pedestrian traffic.

- (b) *Sidewalk construction*. All sidewalks shall be designed and constructed in accordance with the specifications established by the Director. The minimum requirements for sidewalks shall be as follows:

- (1) Residential sidewalks shall be constructed of Portland cement, having a minimum thickness of four (4) inches and increased to six (6) inches at driveway entrances, with a minimum of four (4) inches of crushed stone base under the cement. The minimum width of sidewalks in residential zoning districts shall be four (4) feet.
- (2) Nonresidential sidewalks shall be constructed of Portland cement, having a minimum thickness of four (4) inches and increased to seven (7) inches at driveway entrances, with a minimum of four (4) inches of crushed stone base under the cement. The minimum width of sidewalks in nonresidential developments shall be six (6) feet.
- (3) All sidewalks shall meet requirements of the Federal Americans with Disabilities Act with regard to handicapped accessibility, including, without limitation, the required placement of truncated domes to assist the visually impaired.
- (4) Unless otherwise required or permitted by the Commission, sidewalks shall be placed in the street right-of-way (or in the road maintenance and improvement utility easement area required by section 825(c)(2) above) and located no closer than five (5) feet from the edge of the curb.
- (5) If a subdivider requests a waiver from the above sidewalk requirements, the Commission shall determine the feasibility of the sidewalk construction considering, but not limited to, the following factors:

- A. Interference with existing structures;

- C. Excessive construction costs;
- D. Planned structures;
- E. Drainage patterns and controls;
- F. Federal, State and County regulations;
- G. Preservation of significant vegetation;
- H. Preservation of natural features, such as large trees, unusual rock formations, water courses, historical significances, and similar assets;
- I. Conditions peculiar to a site; and
- J. Public safety and convenience.

If the Commission determines sidewalks are not feasible, in lieu of the sidewalks, the Commission may require enhanced features to the subdivision such as landscaping and water features of approximate or equal value.

- (b) *Pedestrian ways.* Subdividers may be required to provide pedestrian ways within subdivisions when the Commission determines that a pedestrian way is necessary to provide access within a medium to high density development, or to parks, schools, shopping areas, public transportation facilities, mid-block crossings, common ground, or other similar facilities, or where otherwise necessary to promote the public safety. A pedestrian way shall be provided in accordance with the following:
  - (1) A minimum of ten (10) feet of right-of-way shall be provided for the required pedestrian way.
  - (2) If a pedestrian way is necessary to provide access to an area intended for the installation of activity recreation facilities, a walkway will be required within the pedestrian way. The walkway shall be constructed with four (4) foot wide and four (4) inch thick Portland cement pavement over a minimum of four (4) inches of crushed stone base or other all-weather surface as approved by the Director on a grade longitudinally not exceeding eight (8) percent unless steps are provided as a part of the walkway.
  - (3) Planting pockets shall be provided in pedestrian ways for tree and shrub planting.
  - (4) Fences or other improvements may also be required if the Commission determines that such improvements are necessary to protect adjacent properties or pedestrians.
  - (5) No building permit shall be issued on lots abutting the walkway required within a pedestrian way until the walkway has been constructed.
- (c) *Alternate subdivision sidewalk/pedestrian way plan.* It is recognized that in certain instances, due to topography and other conditions, a subdivider may wish to propose a pedestrian walkway plan for a specific residential subdivision that will require a deviation from the requirements for sidewalks as set forth above (such as a system of pedestrian ways that would follow rear lot lines or which might border a natural drainage course). In such instances, an overall plan for the proposed alternate system of pedestrian ways (an alternate subdivision sidewalk/pedestrian way plan) shall be submitted along with the subdivision preliminary subdivision plat and will be reviewed as a part of the preliminary subdivision plat approval process. An alternate subdivision sidewalk/pedestrian way plan must provide a continuous system of walkways located within easements dedicated as pedestrian ways on the final subdivision plat, and complying with the requirements set forth above or as may be otherwise established by the Commission for pedestrian ways.

(Ord. No. 958, § 1, 1-20-09)

Sec. 835. - Utilities.

- (a) *Underground wiring required.* All electric, lighting, telephone, and cable television distribution lines shall be installed underground, except those feeder lines necessary to serve the subdivision and in locations approved by the Director. Switching enclosures, pad mounted transformers, and service pedestals may also be installed above ground in locations approved by the Director. The City Council may approve, upon recommendations from the Commission, above ground installations in whole or in part for subdivisions, only when a request is submitted by the subdivider with documentation that supports the impracticability of installing such utility lines underground.
- (b) *Water facilities.* The subdivider shall secure water and service to each lot within the subdivision for the purpose of providing sufficient potable water supply and fire protection. The subdivider shall arrange for installation of water mains. Fire hydrants shall be located and installed in accordance with the specifications established by the fire district serving the subdivision.
- (c) *Sanitary and storm sewers.*
- (1) Adequate sanitary sewer collection lines shall be provided and accessible to each lot. All sanitary sewers, sanitary sewer connections, manholes, and other sanitary installations serving the subdivision shall comply with MSD design standards and design standards established by the Director. In instances where there are differences between MSD standards and those established by the Director, the most restrictive standard shall apply. The subdivider shall be responsible for installing all required building service connections.
  - (2) Every subdivision shall be designed to control stormwater runoff. All storm sewers, storm sewer connections, detention/retention facilities, and other storm drainage improvements shall comply with MSD design standards and design standards established by the Director. In instances where there are differences between MSD standards and those established by the Director, the most restrictive standard shall apply.
  - (3) In residential subdivisions, drainage/retention facilities and land area required to provide access to such facilities shall be located within common ground. Drainage detention facilities or other storm drainage facilities that will not be maintained by MSD shall be conveyed to the trustees of the subdivision association for maintenance purposes, in accordance with this subdivision code.
  - (4) In single lot subdivisions, drainage detention facilities or other storm drainage facilities that will not be maintained by MSD shall be maintained by the property owner.
  - (5) Drainage discharge. All drainage provisions shall be of such design to carry surface waters to the nearest practical storm drain or natural watercourse as approved by the Director. The finished grade of sites, one (1) acre or greater in area, from which all or a portion will drain into a natural or improved drainage way, shall be so designed so that stormwater runoff is intercepted by diversion swales or area inlets, and lowered to a stable outlet constructed of concrete, rip-rap, pipe, or other techniques required by MSD or as specified by the Director. The rate of discharge of surface water runoff shall be in accordance with the requirements of MSD, except that the Director may require more restrictive discharge rate in areas where flash flooding, bank erosion, or other chronic stormwater drainage problems exist.
- (d) *Other utilities.* The design and installation of other utilities (e.g., electrical distribution, gas mains and services, telephone, and cable television) shall be provided at a service level necessary for the subdivision and in accordance with the specifications, approval, and inspection requirements of the applicable utility company.
- (e) *All underground utilities.* All existing trees that are to be preserved shall be protected from damage by excavation activities. Roots of such trees shall not be cut without express approval of the Director.

(Ord. No. 958, § 1, 1-20-09)

Sec. 840. - Utility and drainage easements.

(a) *General requirements:*

- (1) In any case in which a subdivider installs or causes the installation of water, sanitary sewer, electrical power, telephone, cable television, or other facilities outside a public street right-of-way, and intends that such facilities shall be owned, operated and maintained by a public utility or any entity other than the subdivider, the subdivider shall transfer to such utility or entity the necessary ownership or easement rights to enable the utility or entity to operate and maintain such facilities upon their completion and acceptance by the utility or entity. Such easements shall be clearly indicated on the final subdivision plat.
- (2) Where possible, easements should be located along rear and side lot lines. Such easements shall not be less than ten (10) feet in width, which may be evenly divided between abutting properties.

(b) *Storm drainage easements.*

- (1) Storm drainage easements may be required for the proper drainage within and throughout a subdivision. Wherever a subdivision is traversed by a watercourse, drainage channel or stream, there shall be provided a drainage easement which shall be for the purpose of widening, straightening, improving and maintaining such drainage way. The width of the drainage easement shall be as necessary for the access and maintenance of the drainage way or as required by MSD.
- (2) Access easements shall be established as necessary to provide an unobstructed route to the storm drainage easement area for maintenance equipment. Separately designated access easements shall not be less than twenty (20) feet or as specified by MSD.

(Ord. No. 958, § 1, 1-20-09)

Sec. 845. - Landscaping.

A subdivision landscape plan shall be submitted with the subdivision improvement plans for review to the Department of Public Works and prior to submitting the proposed final subdivision plat. The subdivision landscape plan shall contain types, sizes, and locations of all proposed and existing plantings. The subdivider shall guarantee the installation of additional landscaping as shown on the approved landscaping plan in accordance to this subdivision code. The subdivision landscape plan shall include the following:

- (a) *Street trees.* Street trees shall be clearly delineated in the subdivision landscape plan submitted with subdivision improvement plans. Street trees shall be subject to the following standards:
- (1) Street trees shall be deciduous hardwood trees, not less than three (3) inch caliper with a branching height of at least seven (7) feet six (6) inches.
  - (2) Street trees may include existing trees, new trees, or a combination thereof provided that there is one (1) street tree for every thirty (30) lineal feet, or part thereof, on each side of street frontage and such street trees shall be located at least two (2) feet-six (6) inches, but not more than twelve (12) feet, from the back of the curb.
  - (3) Plant material shall be of species compatible with the climate and soil factors within the City of Black Jack. A list indicating acceptable plant material is available from the Department of Public Works.
  - (4)

The subdivider shall maintain and warrant all street trees for a period of three (3) years. In the event that any existing or new street tree enters a state of shock, shows poor health or dies, the subdivider will have thirty (30) days from the date of notification from the Director to replace the street tree in conformance with this section.

- (b) *Planting screening.* Within areas defined on the subdivision improvement plans for screen planting or buffer, a continuous planting of evergreens and deciduous trees shall be provided consisting of a minimum of one (1) two and one-half (2½) inch caliper deciduous tree, two (2) two and one-half inch (2½) inch caliper flowering trees, and eight (8) six (6) to eight (8) foot tall evergreens for each one hundred (100) feet of such screen.
- (c) *Nonresidential subdivisions.* Planting in nonresidential subdivisions shall be done in accordance with the requirements of the Commission as determined in each case.
- (d) *Total tree density requirement for residential subdivisions.*
  - (1) The subdivider shall provide new and/or existing trees throughout the subdivision to the average minimum of one (1) tree per two thousand (2,000) square feet of site area less street right-of-way. (This excludes required street trees and screening trees).
  - (2) Each lot shall have a minimum of one tree (new or existing) per four thousand (4,000) square feet of lot area. (This excludes street trees and screening trees).
  - (3) Trees shall be spaced so that each lot has a minimum tree canopy coverage area of three hundred fifty (350) square feet per one thousand (1,000) square feet of lot area (thirty-five (35) percent coverage). The subdivider shall provide a subdivision landscape plan which locates and identifies by species new and existing trees to be counted as fulfilling the tree requirements. The tree canopy area shall be shown on the approved subdivision landscape plan. The canopy for each tree shall be drawn in accordance with the canopy sizes for mature trees shown on the acceptable plant material list available from the Department of Public Works.
  - (4) Preserved existing and new deciduous trees shall be at least two and one half inches (2½) inches in caliper. Evergreen trees shall be a minimum of six (6) feet in height. Trees shall be of a species approved by the City.
  - (5) Significant existing trees shall be live, healthy trees of a species suitable for the urban environment having a caliper of eight (8) inches or greater, as approved by the Commission.
  - (6) The subdivision improvement plans shall show significant trees designated by the Commission to be saved by the subdivider. If a significant tree or trees designated in the subdivision improvement plans to be saved is lost for any reason by the time the final inspection of the subdivision, the lost tree(s) shall be replaced by three (3) times the number of trees lost.
  - (7) Where it is determined that removal of significant trees has occurred within two (2) years prior to the filing of the preliminary subdivision plat, the Commission and/or City Council may require plantings in excess of the above requirements up to one and one-half (1½) times the number of trees that would otherwise be required.

(Ord. No. 958, § 1, 1-20-09)

Sec. 850. - Monuments, markers, and benchmarks.

- (a) Permanent survey monuments shall be set as follows:

- (1) At the intersection of all lines forming angles in the boundary of the subdivision;
- (2) At the intersection of street property lines and at the beginning and end of all curves along street property lines

- (b) Unless the point is located by monument, markers shall be set as follows:
  - (1) At all points where lot lines intersect street right-of-way lines;
  - (2) At all angles in the lot property lines;
  - (3) At all other lot corners.
- (c) Monuments shall be approved by the Director or shall be constructed of concrete with minimum dimensions of four (4) inches by four (4) inches at the top and six (6) inches by six (6) inches at the bottom with a length of three (3) feet. Monuments shall be marked with either a copper or steel dowel embedded so that the top of the dowel shall be flush with the top surface at the center of the monument.
- (d) Markers shall consist of galvanized steel or wrought iron pipe, or steel bars at least eighteen (18) inches in length and three-quarters ( $\frac{3}{4}$ ) of an inch in outside diameter.
- (e) Monuments and markers shall be so placed that the center point shall coincide with the point to be marked and the top is level with the surface of the surrounding ground after final grading.
- (f) Monuments and markers shall be set after the completion of all grading operations and in such manner as to preclude their destruction during subdivision construction activities.
- (g) Where a permanent bench marker is not located within one thousand (1,000) feet of the center of the subdivision and so noted on the final subdivision plat, a permanent benchmark, elevation of which is referred to mean sea level, shall be set and accurately noted on the subdivision plat.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 855. - Common ground.

- (a) Common ground. Common ground provided in a residential subdivision and conveyed to a subdivision association (private open space) or to the City (public open space) shall remain permanently open for recreational and conservation purposes. Open space, whether such areas are or will be public or private, in any residential subdivision shall be laid out, to the maximum feasible extent, so as to connect with other open space, existing or proposed, in the vicinity. In the case of two (2) or more adjacent subdivisions, subdividers may cooperatively allocate open space areas, if such areas are coordinated in design and location to an extent acceptable to the Commission and City Council.
- (b) Private open space. Private open space which is held in common shall be set aside for the benefit, use, and enjoyment of the subdivision lot owners, present and future. All private open space, including recreation areas, tree cover areas, scenic vistas, wildlife plan preserves, nature study areas, and private walkways, whose acreage is used in determining the size and extent of common ground shall be included in restrictive covenants, easements, or other legal devices designated to assure that such space will remain permanently open.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 860. - Natural features.

The Commission may, wherever possible, require preservation of all natural features which add value to the proposed subdivision and to the community at large, such as large trees or groves of trees, watercourses, historic features, wildlife habitats and environmental areas, and similar irreplaceable community assets. The location, nature and extent of such facilities shall be identified in the initial procedures and preliminary subdivision plat stages and shall be made part of the subsequent plats to the

greatest possible extent. The preservation or inclusion of such features may be made a condition of approval of the final subdivision plat. Adequate access to such areas shall be provided in all adjacent platting.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 865. - Uninhabitable areas.

Lands subject to flooding, or otherwise deemed uninhabitable in their natural state by the Commission, shall not be platted for residential use, or any other use that might create a danger to health, safety, or property, or which might increase the flood hazard within or outside the subdivision. Such lands shall be set aside for recreational use or shall be retained in their natural state as open space; provided however, that such lands may be platted and developed if the features making the lands uninhabitable can reasonably be removed without destruction of adjacent property or desirable natural features of the land and approval is obtained from the City Council. In all platting adjacent to such areas, adequate provisions for access to said areas, as determined by the Director, shall be provided.

(Ord. No. 958, § 1, 1-20-09)

### ARTICLE IX. - SPECIAL PROCEDURES

#### Sec. 900. - Boundary adjustment plat.

- (a) *Purpose and intent.* The purpose of this section is to allow adjustments to be made to lot lines of platted lots or other lawful parcels for the purpose of adjusting the sizes of building sites; however, it is not intended that extensive replatting be accomplished by use of this section.
- (b) *Boundary adjustment criteria:*
  - (1) No additional lot shall be created through the boundary adjustment.
  - (2) The resulting lot or lots shall not be reduced below the minimum sizes and dimensions required by the zoning ordinance.
  - (3) The boundary adjustment shall not increase or decrease any original lot size, including lot area, lot width or lot depth, by more than ten (10) percent.
  - (4) Boundary adjustments that do not meet the above criteria shall follow the procedures for approval of preliminary and final subdivision plat set forth in this subdivision code.
  - (5) Where a boundary adjustment is proposed fronting on an existing City maintained road that:
    - A. Has less than a fifty (50) foot wide right-of-way; or
    - B. Is designated by the City as a collector road, or
    - C. Is proposed for widening as determined by the Director; required lands for the widening shall be dedicated to the City.
- (c) *Boundary adjustment procedure.*
  - (1) Submission requirements. Each subdivider proposing a boundary adjustment shall provide to the Department of Public Works:
    - A. One completed and signed copy of a boundary adjustment plat application, as provided by the Department of Public Works, along with the required fee.
    - B. Proof of ownership and/or authorization of the subdivider to act as an agent of the owners.
    - C.

A copy of the last instrument conveying title to the land proposed to be subdivided from the office of the Recorder. Such instrument shall include the name of the grantor and the grantee, and the date and type of conveyance.

- D. Copy of deed establishing ownership and evidence that all parties having a mortgage or lien interest including the owners have properly signed the plat dedication.
- E. A boundary adjustment shall be accomplished by plat and must include an adequate legal description of the boundaries of the subdivision, the boundaries of the original lots and the boundaries of the adjusted lots.
- F. Copy of deed restrictions or restrictive covenants and articles of incorporation and bylaws of any applicable subdivision association.
- G. Five (5) copies of the boundary adjustment plat on twenty-four (24) inch by thirty-six (36) inch sheets, one copy of the boundary adjustment plat reduced to an eight and one-half (8½) inch by eleven (11) inch sheet, and one (1) digitized version of the boundary adjustment plat, submitted in a format compatible with the City mapping software, shall be provided for staff review. The boundary adjustment plat shall:
  - 1. Be drawn to a scale from one-inch equals twenty feet (1" = 20') through one inch equals one hundred feet (1" = 100'), so long as the scale is an increment of ten (10) feet.
  - 2. Provide the name of the proposed plat, names and address of the owners, and the professional engineer or land surveyor who prepared the plat.
  - 3. Contain a vicinity map showing the relationship of the proposed boundary adjustment to the surrounding community. The vicinity map shall cover an area within a radius of one (1) mile of the proposed subdivision at a scale of one-inch equals two thousand feet (1" = 2,000'). The map shall generally locate arterial streets, highways, railroads, and any significant landmarks which help to locate the subdivision.
  - 4. Provide the approximate area of the proposed boundary adjustment plat and the proposed lots therein stated in square feet, if less than one (1) acre in area, or to the nearest one-tenth (1/10) of an acre, if one (1) acre or more in area, including a complete metes and bounds written description of the proposed boundary adjustment plat boundaries.
  - 5. Depict the location of the plat by USGS Survey System and political subdivisions, including section, town, range, township, county and state.
  - 6. Contain a title, date of preparation, scale of map and north arrow.
  - 7. Depict all plat boundaries based on an accurate traverse, with all angular and linear dimensions shown. Error of closure of such boundary survey shall not exceed one (1) in ten thousand (10,000) (one (1) foot for each ten thousand (10,000) feet of perimeter survey).
  - 8. Accurately locate all survey monuments.
  - 9. Identify dimensions of the lots or parcels to be adjusted.
  - 10. Depict building setback lines, including side yard, rear yard, or property line setback associated with each proposed adjusted lot, in accordance with the applicable zoning district classification, easements, existing and proposed, showing locations, widths and purposes.
  - 11. Identify and delineate any buffer areas required by the zoning ordinance.

12. Identify the owners of record of land adjoining the proposed boundary adjustment plat, the existing zoning district classification(s) of the adjoining properties, and the proposed zoning district classification of the proposed boundary adjustment plat.
  13. Identify the proposed use of each lot within the proposed boundary adjustment plat.
  14. Delineate the Federal Flood Insurance Administration designated floodplain and floodway boundaries, if any.
  15. Identify all utilities serving the proposed boundary adjustment plat.
  16. Provide a certification by the professional engineer or land surveyor who prepared the plat, indicating that the boundary adjustment plat is a correct representation of all existing and proposed land divisions.
- (2) The boundary adjustment plat shall be submitted to the Director. The Director shall review the boundary adjustment plat for compliance with the boundary adjustment plat criteria above, and with the aforementioned submittal requirements. For boundary adjustment plats in compliance with submittal requirements, the Director shall have thirty (30) days to review and approve the proposed boundary adjustment plat. For boundary adjustment plats not in compliance with submittal requirements, the Director shall return the boundary adjustment plat to the subdivider for resubmission.
- (3) The boundary adjustment plat must be reviewed and approved by the Director prior to recording with the office of the Recorder. Upon approval, the Director shall cause the approved boundary adjustment plat to exhibit the signature of the Chairperson to the Commission entitling the approved boundary adjustment plat to be recorded.
- (d) *Lots in compliance.* Boundary adjustments may be allowed for lawful lots existing in noncompliance with minimum area, frontage and dimensional requirements of this subdivision code or the zoning ordinance, provided that resulting adjustment of lot lines does not increase the degree of noncompliance with the zoning ordinance and this subdivision code.
- (e) *Boundary adjustment plat expiration—Revocation of approval.* If the subdivider fails to record a boundary adjustment plat with the office of the Recorder within six (6) months from the date of boundary adjustment plat approval, the Commission shall require the subdivider to explain extenuating circumstances preventing the recording of the boundary adjustment plat. If the Commission determines that an extension of time for recording would serve the best interest of the City of Black Jack, the Commission shall be authorized to grant one extension for a period not to exceed six (6) months. If the Commission determines that an extension of time for recording would not serve the best interest of the City of Black Jack, the Commission shall formally revoke its approval of the boundary adjustment plat and notify the subdivider and the office of the Recorder of such action.

(Ord. No. 958, § 1, 1-20-09)

Sec. 910. - Condominiums—Plats and additional requirements.

- (a) *Applicability.* No condominium subdivision shall be approved, recorded or developed in any way without compliance with the terms of this subdivision code. This subdivision code shall apply to any subdivision or part of a subdivision intended to be developed by the construction of multiple-family buildings or a multiple-family building, and the sale of the building by selling individual condominium units rather than by selling the building to a person, firm, corporation or association which will act as

landlord and rent the dwelling units to individual tenants. Additionally, all condominiums and the subdivider thereof shall be subject to and conform to the provisions of Chapter 448 of the Revised Statutes of Missouri, as amended, or successor statutes (the "Condominium Act").

(b) *Condominium plat criteria.*

- (1) Submission of a preliminary plat. A preliminary subdivision plat shall be prepared and approved in accordance with requirements of this subdivision code. In addition to the information required for a preliminary subdivision plat, the following shall be depicted:
  - A. Locations of proposed buildings and proposed property divisions within proposed buildings;
  - B. The means of ingress and egress;
  - C. Proposed easements; and
  - D. Proposals with respect to trust indentures and public dedications.
- (2) Subdivision improvement plans shall be submitted and approved as set forth in this subdivision code, including installing or guaranteeing of improvements.
- (3) A condominium plat which is in conformance with the Condominium Act shall be submitted for review by the Director and approval of the Commission.
- (4) In addition to the foregoing requirements, every declaration of condominium prepared pursuant to this section shall include provisions for the following:
  - A. The board of managers shall be responsible for compliance with all City ordinances with respect to common elements and common areas.
  - B. Service of any notice or of any complaint with respect to a violation of City ordinances relating to common elements or common areas shall be sufficient if served on the board of managers.
  - C. Assessment powers of the board of managers shall include the right to levy assessments for the cost of compliance with all City requirements with respect to the common elements or common areas, the curing of any violations of these City requirements, and the satisfaction of any fines or costs that may be imposed for violation of City requirements.
  - D. A fidelity bond covering the board of managers shall be obtained and maintained in full force and effect at all times.

(c) *Condominium plat review procedures.* The Director shall review the condominium plat for conformance with the approved preliminary subdivision plat, the comprehensive plan, the general requirements of this subdivision code and the zoning ordinance. If the condominium plat is incomplete, the Director shall return the condominium plat to the subdivider to complete necessary requirements. Upon determination by the Director, that the condominium plat is complete, the subdivider shall prepare and submit to the Commission fifteen (15) copies of the condominium plat, one (1) copy reduced to eight and one-half (8.5") inches by eleven inches(11"), and one (1) digitized version, submitted in a format compatible with the City mapping software.

The Director shall, within thirty (30) days from receipt of a complete condominium plat, submit a report to the Commission for consideration. The report shall include comments of the Director, as well as comments of all agencies and city departments to whom the condominium plat was referred for review.

(d) *Review and action by the Commission.* After receipt of the Director's report, the Commission shall take action. Action by the Commission shall consist of one (1) of the following:

- (1) Approval—The Commission may recommend approval of the condominium plat as submitted or

- (2) Disapproval—The Commission may recommend disapproval of the condominium plat and the grounds for disapproval shall be made a matter of record.

In any case, the Director shall notify the subdivider in writing within fifteen (15) business days of the Commission's action and if approved, the Commission shall direct the Director to forward the condominium plat to the City Clerk for distribution to the City Council for final review.

- (e) *Review and action by the City Council.* After receipt of a condominium plat from the Commission, the City Council shall take action on the condominium plat. City Council action shall consist of the following:
  - (1) Approval—The City Council may, by majority vote, finally approve the condominium plat as recommended by the Commission or finally approve the condominium plat with amendments by two-thirds (2/3) majority vote. If the subdivider receives City Council final approval for the condominium plat, a record condominium plat may be prepared.
  - (2) Disapproval—If the condominium plat is not approved by the City Council, the subdivider may resubmit a new condominium plat to the Commission as described in this section.
- (f) *Effect and approval.* Final approval of the condominium plat shall confer upon the subdivider the right to record the approved condominium plat in the office of the Recorder. The subdivider shall file the condominium plat with the office of the Recorder within sixty (60) days of the date of final approval of the condominium plat by the City Council.
- (g) *Condominium plat expiration—Revocation of approval.* If the subdivider fails to record the approved condominium plat with the office of the Recorder within sixty (60) days from the date of final condominium plat approval, the City Council shall require the subdivider to explain extenuating circumstances preventing the recording of the condominium plat. If the City Council determines that an extension of time for recording would serve the best interest of the City of Black Jack, the City Council shall be authorized to grant one (1) extension for a period not to exceed sixty (60) days. If the City Council determines that an extension of time for recording would not serve the best interest of the City of Black Jack, the City Council shall formally revoke approval of the condominium plat and notify the subdivider and the office of the Recorder of such action.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 920. - Vacations.

- (a) *Purpose and intent.* This section sets out the required review and approval procedures for vacation of any plat, part of a plat, street, alley or public reservation.
- (b) *Vacation criteria.* A complete application for vacation shall be submitted to the Department of Public Works in a form established by the City (vacation application), along with a nonrefundable fee that has been established by the City Council to defray the cost of processing the vacation application. No vacation application shall be processed until the vacation application is complete and the required fee has been paid. The vacation application shall be made by all owners of lands within the subdivision (or part thereof) for which the plat (or part thereof) is to be vacated or by all owners of lands adjoining on both sides of the street, alley or public reservation proposed to be vacated. If the vacation application is not submitted by all such owners, the fact shall be noted on the vacation application along with the names and addresses of all adjoining owners who are not a party to the vacation application.

The following shall be submitted in support of a vacation application:

- (2) Name and address of all owners of property within or abutting the proposed vacation area, as applicable.
  - (3) Notarized affidavit(s) from each owner(s) of land within or adjoining said area that is proposed to be vacated, as applicable, who are not listed as an applicant, indicating their consent to the vacation.
  - (4) A written description of the boundaries of the area to be vacated submitted by a professional engineer or land surveyor.
  - (5) Survey or such drawings acceptable to the Director depicting the plat (or part thereof), street, alley or public reservation sought to be vacated, any utilities contained therein, and the properties, and each property's ownership, within or surrounding said property, street, alley or public reservation.
- (c) *Vacation application review procedures.* The Director shall review the vacation application for conformance with the comprehensive plan, the general requirements of this subdivision code and zoning ordinance, and the applicable review criteria. If the vacation application is incomplete, the vacation application shall be returned to the applicant(s) to complete necessary requirements. Upon determination by the Director, that the vacation application is complete, the applicant shall prepare and submit fifteen (15) copies of the vacation application.

The Director, within forty-five (45) days from receipt of a complete vacation application, shall schedule a duly noticed public hearing before the Commission and submit a report to the Commission for consideration. The report shall include comments of the Director, as well as comments of all agencies and City departments to whom the vacation application was referred for review.

(d) *Notice of public hearing.*

- (1) Newspaper notice. Notice of the time and place of scheduled public hearing before the Commission shall be published in a newspaper of general circulation at least fifteen (15) days prior to the public hearing.
  - (2) Written notice. The City will attempt to notify by mail, all owners of property within or abutting the proposed area of vacation.
- (e) *Review and action by the Commission.* After receipt of the Director's report and a public hearing, the Commission shall take action. Action by the Commission shall consist of one (1) of the following:
- (1) Approval—The Commission may recommend approval of the vacation application as submitted or recommend approval of the vacation application with amendments.
  - (2) Disapproval—The Commission may recommend disapproval of the vacation application for reasonable cause.

In either case, the Director shall notify the applicant in writing within fifteen (15) business days of the Commission's action, and if approved, the Commission shall direct the Director to forward the vacation application to the City Clerk for distribution to the City Council for final review.

- (f) *Review and action by the City Council.* The City Council shall consider the vacation application request at a regular meeting. The City Council shall approve the application if the City Council determines from the submitted evidence and testimony that:
- (1) Due and legal notices have been given by publication as required herein.
  - (2) No private rights will be injured or endangered by the vacation.

The public will suffer no loss or inconvenience thereby and that in justice to the applicant the vacation application should be granted.

The City may retain easements in the vacated property if deemed necessary for the public good or welfare.

- (g) *Effect and approval.* Approval of the vacation application shall confer the applicant(s) the right to record a vacation plat in the office of the Recorder. The applicant(s) shall file a vacation plat with the office of the Recorder, within sixty (60) days of the date of approval of the vacation application by the City Council.
- (h) *Vacation plat expiration—Revocation of approval.* If the applicant(s) fails to record the vacation plat with the office of the Recorder within sixty (60) days from the date of vacation application approval, the City Council shall require the applicant(s) to explain extenuating circumstances preventing the recording of the vacation plat. If the City Council determines that an extension of time for recording would serve the best interest of the City of Black Jack, the City Council shall be authorized to grant one (1) extension for a period not to exceed sixty (60) days. If the City Council determines that an extension of time for recording would not serve the best interest of the City of Black Jack, the City Council shall formally revoke approval of the vacation plat and shall notify the applicant and the office of the Recorder of such action.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 930. - Minor subdivision.

For Minor Subdivisions, the Commission may waive the requirement of submission of all plats except the final subdivision plat.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 940. - Display house plat procedure.

- (a) *Purpose.* The purpose of this section is to provide a procedure whereby the construction of a display house can begin prior to the recording of the final subdivision plat.
- (b) *Procedure.* The subdivider may, after receiving approval of a preliminary plat of a proposed subdivision from the Commission, submit a display house plat to the Commission for review and approval. There may be one (1) display house for every twenty (20) houses proposed, not to exceed ten (10) display houses. The display house plat shall include a complete outboundary survey of the proposed subdivision, and the location of each display house in relation to proposed lots. The script of said display house plat shall contain terms and conditions as required by the Commission including, but not limited, to the following:
  - (1) The display house plat shall be recorded in the office of the Recorder prior to issuance of a building permit for any display house.
  - (2) The display house plat shall become null and void upon the recording of a final subdivision plat which established that each display house is on an approved lot.
  - (3) No part of the proposed subdivision may be conveyed, nor an occupancy permit issued for any structure therein, until the display house or houses have been located on an approved lot on an approved and recorded final subdivision plat.
  - (4) If initial construction of a display house has not commenced within sixty (60) days of the approval of the display house plat, the Commission's approval shall lapse and the display house plat shall be null and void.

ARTICLE X. - ADMINISTRATION

Sec. 1000. - Subdivision review fees.

- (a) *Preapplication conference.* There shall be no fee for a preapplication conference.
- (b) *Preliminary Subdivision Plat Filing/Review Fee.* There shall be a four hundred dollar (\$400.00) filing fee accompanying the submission of a proposed preliminary plat, except where previously reviewed under the special procedure section of the Zoning Ordinance of the City of Black Jack, in which case there shall be no fee. There shall be a one hundred dollar (\$100.00) filing fee for a minor subdivision plat.
- (c) *Final subdivision plat.*
  - (1) There shall be a twenty dollar (\$20.00) per lot or unit (whichever is greater) subdivision permit fee accompanying the submission of a proposed final subdivision plat.
  - (2) There shall be an additional subdivision permit fee accompanying the submission of a proposed final subdivision plat for a non-residential subdivision. Said fee shall be seventy-five dollars (\$75.00) per acre for the first twenty (20) acres; an additional sixty-five dollars (\$65.00) per acre for each acre over twenty (20) up to one hundred (100) acres; and a thirty-five dollar (\$35.00) per acre fee for each acre over one hundred (100) up to two hundred (200) acres. There shall be no additional fee for applications for tracts in excess of two hundred (200) acres.
- (d) *Display house permit fee.* There shall be a one hundred fifty dollars (\$150.00) filing fee plus a seventy-five dollar (\$75.00) per house fee accompanying the submission of a display house plat.
- (e) *Boundary adjustment plat.* There shall be a one hundred fifty dollar (\$150.00) filing fee accompanying the submission of a boundary adjustment plat.
- (f) *Vacation plat.* There shall be a one hundred fifty dollar (\$150.00) filing fee accompanying the submission of a vacation plat.
- (g) *Variance fee.* There shall be a seventy-five dollar (\$75.00) review fee accompanying an application for a variance to the Subdivision Code.
- (h) *Street inspection fee.* The City Clerk shall collect inspection fees for the account of the City of Black Jack as per the following paragraph:

Before any final subdivision plat shall be approved by the Planning and Zoning Commission, the subdivider or owner or his or her agent shall pay to the City of Black Jack a fee for services in connection for the consideration and approval of the plat and for the inspections of the improvements to be installed in the subdivision, at the rate of two (2) percent of the first three thousand dollars (\$3,000.00) of the estimated cost of construction of streets, storm sewers, sanitary sewers and appurtenances thereto and other improvements as fixed for the purpose of the subdivision, if any, or if none, then of the actual cost of such streets, storm sewers, sanitary sewers, appurtenances and other improvements as calculated by the City Engineer, and one and one-half (1½) percent on the next three thousand dollars (\$3,000.00) of such estimated or actual cost, and one and one-half (1½) percent on the cost in excess of six thousand dollars (\$6,000.00), provided however, that in no case shall the fee be less than fifty dollars (\$50.00).
- (i) *Review processing deposit.*
  - (1)

A review processing deposit, in the amount of two thousand dollars (\$2,000.00), shall be paid into the City by the subdivider at the time the preliminary plat is filed with the Planning and Zoning Commission. Processing and all other actions related to the subdivision shall not proceed until the deposit is paid in full. The deposit is for the purpose of providing funds for professional consulting costs incurred by the City incidental to the processing of plats. Any professional consulting costs or expenses incurred by the City as a result of the review process as set out in the Subdivision Code shall be paid out of said deposited amount. Said professional consulting costs or expenses incurred by the City, to be deducted from said deposit, shall be determined by the City Clerk from specific billings submitted to the City by the consulting professionals.

- (2) If at any time during the processing of the subdivision application it appears that the review processing deposit is insufficient to reimburse the City for all such professional consulting expenses incurred or to be incurred, the City Clerk shall present to the subdivider a listing of all such actual and anticipated costs or expenses and shall notify the subdivider of any additional cost assessment necessary for the completion of the subdivision process. The subdivider shall remit the additional amount to the City within ten (10) days of the date of the City Clerk's notice, or within such additional time as may be allowed by the Planning and Zoning Commission. Processing and all other actions related to the subdivision, including final determination or disposition, shall not proceed until such additional cost assessment is paid in full. Failure to remit the additional cost assessment shall be grounds for denial of the preliminary or final plat by the Planning and Zoning Commission.
- (3) Within thirty (30) days from the final determination or disposition by the City of any subdivision plat, at whatever stage that may occur, the City Clerk shall present to the subdivider a listing of all deposits, costs and expenses. Any portion of said deposited monies not expended or budgeted for expenditures shall be returned to the subdivider at that time. Conversely, if the processing cost deposit is insufficient to reimburse the City for incurred professional consulting expenses, the subdivider, within ten (10) days of receipt of the City Clerk's accounting, shall remit additional funds for complete reimbursement of the City's professional consulting costs.
- (4) The deposit required herein shall be separate from, and is not intended to include, any building or improvement or any other permit or inspection fees or any escrow monitoring fees.
- (j) *Additional fees.* In addition to all fees provided for herein, the subdivider shall pay for and arrange for inspections by other departments or agencies as may be required by other ordinances and regulations of the City.

(Ord. No. 958, § 1, 1-20-09; Ord. No. 959, § 1, 1-20-09)

#### Sec. 1010. - Administration.

The Director may adopt, amend and publish rules and instructions consistent with the intent of this subdivision code for the administration of this subdivision code to the end that the public is informed and that approvals of plats and plans are expedited.

(Ord. No. 958, § 1, 1-20-09)

#### Sec. 1020. - Variances.

Whenever the tract to be subdivided is of such unusual size or shape, or is surrounded by such development, or contains such topographic conditions or characteristics, or is intended for the construction of improvements of such unusual design or arrangement, that the strict application of the

the Commission may vary or modify any of the requirements of this subdivision code so that substantial justice may be done and the public interest secured, in accordance with the procedures that may be hereafter established. In granting variances, the Commission shall require such conditions as will, in its judgment, secure the objectives of this subdivision code.

(Ord. No. 958, § 1, 1-20-09)

Sec. 1030. - Preliminary subdivision plat approval prior to the adoption of this Ordinance.

The remaining sections of any subdivision having been given preliminary approval within three (3) years prior to the adoption of this subdivision code, for which one (1) or more record plats have been filed with the office of the Recorder within six (6) months after the effective date of this subdivision code, shall be permitted to continue to develop under the provisions of the previous subdivision code and regulations, provided that the remaining sections shall be complete within two (2) years after the effective date of this subdivision code, unless time is extended by resolution of the City Council.

(Ord. No. 958, § 1, 1-20-09)

Sec. 1040. - Violations and penalties.

- (a) No property description of any subdivision within the jurisdiction of this subdivision code shall be entitled to be recorded in the office of the Recorder or have any validity until the subdivision has been approved in a manner prescribed herein. In the event any such unapproved property description is recorded, it shall be considered invalid and the City Attorney may cause proceedings to be instituted to have such plat or deed declared invalid.
- (b) Any person, firm, association, or corporation violating any provisions of this subdivision code, or any employee, assistant, agent, or any other person participating or taking any part in, joining, or aiding in, a violation of any provision of this subdivision code may be prosecuted as provided by law for the violation of ordinances of the City of Black Jack and upon conviction shall be punished by a fine not exceeding one thousand (\$1,000.00) dollars for any one (1) offense or imprisonment for not more than six (6) months, or by both such fine and imprisonment. Each day a violation continues after service of written notice to abate it shall constitute a separate offense, but no notice to abate is a prerequisite to prosecution of any single violation.
- (c) In addition to the penalties hereinabove authorized and established, the City Attorney may take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violation of this subdivision code.

(Ord. No. 958, § 1, 1-20-09)

## APPENDIX C - ZONING<sup>[1]</sup>

*Footnotes:*

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**Editor's note**—Ord. No. 608, § 1, adopted Mar. 18, 1997, deleted former Appendix C, Zoning in its entirety and enacted provisions as a new Appendix C to read as herein set out. The provisions of Ord. No. 608, § 1, have been set out substantially as enacted, except for minor stylistic changes to provide for uniformity of style. Where words have been added for clarity, they have been enclosed by brackets []. For a detailed history of the provisions of former Appendix C, see the Code Comparative Table.

**Cross reference**— Ordinances pertaining to zoning saved from repeal, § 1-3(11); buildings and building regulations, Ch. 6; drainage and flood control, Ch. 7; planning and development, Ch. 16; signs and advertising devices, Ch. 17.5;

Sec. 010. - Short Title.

This ordinance shall be known and may be cited as "The Zoning Ordinance of City of Black Jack, Missouri."

Sec. 020. - Purpose.

The Zoning Ordinance is adopted to promote the health, safety, morals, comfort and general welfare; to secure economic and coordinated land use; and to facilitate the adequate provision of public improvements.

Sec. 030. - Definitions.

1. For the purpose of this Zoning Ordinance, certain words and phrases are herein defined. Words and phrases defined herein shall be given the defined meaning. Words and phrases which are not defined shall be given their usual meaning except where the context clearly indicates a different or specified meaning.
2. Words used in the present tense shall include the future; the singular number includes the plural and the plural includes the singular; the word "dwelling" includes the word "residence"; the word "shall" is mandatory and not permissive.
3. The following words and phrases are defined:
  - (1) *Accessory building*: Any building, the use of which is incidental to the principal use of another structure on the same premises.
  - (2) *Accessory use*: A use incidental and subordinate to the principal use of the premises.
  - (3) *Accessory structure*: Any structure, the use of which is incidental to the principal use of another structure on the same premises.
  - (3.5) *Adult day care center*: Facility providing care and supervision to meet the needs of Functionally impaired adults for less than twenty-four (24) hours, but more than two (2) hours, per day in a place other than the adult's own home, which facility shall be in compliance with all applicable federal, state, county and municipal licensing requirements.
  - (4) *Apartment*: A room or suite of rooms within a building, provided with separate cooking facilities and intended as a single dwelling unit.
  - (5) *Atrium*: An open public area within a building established principally for aesthetic purposes.
  - (6) *Automobile (automotive)*: As used herein, the term includes passenger cars, motorcycles, vans, pickup trucks, and recreational vehicles.
  - (7) *Bank*: An office building or portion thereof which provides for the custody, loan, exchange, or issue of money, the extension of credit, or facilitating the transmission of funds, and which may include accessory drive-up units on the same premises.
  - (8) *Base flood*: The flood having a one (1) percent chance of being equaled or exceeded in any given year.
  - (9) *Basement*: A floored and walled substructure of a building at least fifty (50) percent below the average finished grade of the building.
  - (10) *Building*: A structure that is permanently affixed to the land, has one (1) or more floors, one (1) or more exterior walls and a roof, and is designed or intended for use as a shelter.
  - (11) *Building line*: See *Setback (building line)*.

- (13) *Childcare center*: Facility providing care for five (5) or more children under the age of thirteen (13), not including children of a family residing on the premises, for any part of a twenty-four-hour day, which facility shall be in compliance with all applicable Federal, state, county and municipal licensing requirements.
- (14) *City*: City of Black Jack.
- (15) *Club*: A building or a portion of a building intended to be used as a center of informal association for a selective membership not open to the general public.
- (16) *Community center*: A facility maintained by a public agency or by a not-for-profit community or neighborhood association primarily for social, recreational, or educational needs of the community or neighborhood.
- (17) *Composting*: The process of collecting yard waste in controlled proportions with aeration and mixing for decomposition into mulch.
- (18) *Condominium*: A single real property parcel with all the unit owners having a right in common to use the common elements with separate ownership confined to the individual units which are serially designated.
- (19) *Day care home*: A family home, occupied as a permanent residence by the day care provider, in which care is given to a maximum of ten (10) children, including children related to the day care provider, for any part of the twenty-four-hour day, which shall be in compliance with all Federal, state, county and municipal licensing requirements.
- (20) *Development*: The act of changing and the state of a tract of land after its function has been purposefully changed by man, including, but not limited to, structures on the land and alterations to the land.
- (21) *District*: A part or parts of the City for which the Zoning Ordinance establishes regulations governing the development and use of land therein.
- (22) *Dwelling*: Any building, or portion thereof, used exclusively for human habitation, except hotels, motels, or house trailers.
- (23) *Dwelling unit*: A room or group of rooms located within a dwelling forming a habitable unit for one (1) family.
- (24) *Dwelling, single-family*: A building designed for, or occupied exclusively, by one (1) family, excluding earth-sheltered dwellings.
- (25) *Dwelling, two-family*: A building designed exclusively for two (2) families, and occupied by no more than two (2) families.
- (26) *Dwelling, multiple-family*: A building designed for three (3) or more families, and occupied by no more than the designed number of families.
- (27) *Family*:
  - 1. An individual living as a single nonprofit housekeeping unit in a dwelling unit;
  - 2. Two (2) or more persons related by blood, marriage, adoption or foster care relationship living together as a single nonprofit housekeeping unit in a dwelling unit;
  - 3. A group of not more than three (3) persons who need not be related by blood, marriage, adoption or foster care relationship, living together as a single nonprofit housekeeping unit in a dwelling unit; or
  - 4. Two (2) unrelated individuals plus the biological, adopted, or foster children of either such

- (28) *Farm*: A parcel of land used for growing or raising agricultural products (excluding livestock, fowl and similar farm animals).
- (29) *Fast-food restaurant*: Any establishment whose principal business is the sale of foods, frozen desserts, or beverages in ready-to-consume individual servings, for consumption either within the restaurant building or for carry-out, and where either (1) foods, frozen desserts, or beverages are usually served in edible containers or in paper, plastic, or other disposable containers, and where customers are not served their food, frozen desserts or beverages by a restaurant employee at the same table or counter where the items are consumed, or (2) the establishment includes a drive-up or drive-through service facility or offers curbside service.
- (30) *Fence*: A structure, partition or wall erected for the purpose of providing shade or privacy screening. Shrubs, hedges, trees and other plant material shall not be considered a fence. Said fence shall not exceed a height of seventy-two (72) inches and shall be at least a minimum of forty-two (42) inches in height.
- (31) *Fence, sight-proof*: A fence with an opaque value of seventy (70) percent or greater. Such structure may be a chain link fence in combination with slat or lattice materials.
- (32) *Filling station (service station)*: Any structure or premises used for dispensing for sale, at retail, of vehicle fuels or lubricants, including lubrication of vehicles and replacement or installation of minor parts and accessories, but not primarily engaged in major repair work such as engine replacement, body and fender repair or spray painting.
- (33) *Floodplain*: That area within the City subject to a one (1) percent, or greater, chance of flooding in any given year. This area is designated "FP" on the Zoning Map.
- (34) *Floodway*: The area designated as Floodway on the Zoning Map. It is derived by determining that portion of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.
- (35) *Floor area, gross*: The sum of the gross horizontal area of all floors of a building, including basement areas, as measured from the interior perimeter of exterior walls. Such area shall not include the following: interior loading and parking areas, atriums except the first floor area, rooftop mechanical equipment enclosures, and the enclosed mall areas of shopping centers.
- (36) *Foster home for handicapped children*: An institution licensed by the State of Missouri providing sleeping and living accommodations for the full-time care, training, recreation, and convalescent needs of five (5) or more physically or mentally handicapped minors.
- (37) *Frontage*: That edge of a lot bordering a street.
- (38) *Golf course*: An area or course for playing golf, consisting of at least nine (9) holes, except miniature golf, within which the playing area is not artificially illuminated.
- (39) *Golf, miniature*: A commercial recreation facility, resembling golf, containing short "holes" the majority of which are under three hundred (300) feet in length, and primarily utilizing putting irons.
- (40) *Grade*: The average level of the finished surface of the ground adjacent to the exterior walls of the building.
- (41) *Group day care home*: See definition for child care center.
- (42)

*Group home for the elderly:* A facility licensed by the State of Missouri providing twenty-four (24) consecutive hour care for three (3) or more persons who by reason of aging require services furnished by a facility that provides shelter, board, storage and distribution of medicines, and protective oversight, including care during short-term illness or recuperation.

- (43) *Gymnasium:* A building or portion thereof used for athletic training or sports activities, including accessory seating for spectators.
- (44) *Height, building:* The vertical distance measured from the curb level to the highest point of the roof surface, if a flat roof; to the deck line of mansard roofs; and to the mean height level between eaves and ridges for gable and gambrel roofs. For buildings set back from the street line, the height of the building may be measured from the average elevation of the finished grade along the front of the building.
- (45) *Heliport:* A facility for the servicing, take-off and landing of helicopters, which is open to public use.
- (46) *Home occupation:* Any occupation or profession carried on by a member of a family residing on the premises, provided that in connection therewith no sign is used other than one nonilluminated name plate attached to the building entrance which is not more than one square foot in area; provided that no commodity is sold upon the premises; provided that no person is employed other than a member of the immediate family residing on the premises; provided that no mechanical equipment is installed except such that is normally used for purely domestic or household purposes; and provided that not over twenty-five (25) percent of the total actual floor area of any story is used for home occupation or professional purposes.
- (47) *Hospice:* Residential and care facility for the terminally ill on the premises of a hospital or nursing home and operated in conjunction therewith.
- (48) *Hospital:* An institution providing medical and surgical care for humans only, for both in- and out-patients, including medical service, training, and research facilities.
- (49) *Hotel:* A building in which lodging is provided to the public usually on a transient basis.
- (50) *Hotel, motor (motel):* A roadside hotel for motorists.
- (51) *House trailer (mobile home):* A self-contained mobile structure intended to be used for dwelling purposes which has been, or reasonably may be, equipped with wheels or other devices for transporting said structure.
- (52) *Intermittent lighting:* A method of lighting, such as for signs, where artificial or reflected light is not maintained stationary or constant in intensity or color.
- (53) *Junkyard:* A parcel of land on which waste material or inoperative vehicles and other machinery is collected, stored, salvaged or sold.
- (54) *Kennel:* The use of land or buildings for the purpose of selling, breeding, boarding, or training dogs or cats or both, or the keeping of four (4) or more dogs over four (4) months of age, or keeping six (6) or more cats over four (4) months of age, or the keeping of more than five (5) dogs and cats. The word "selling" as herein used shall not be construed to include the sale of animals four (4) months of age or younger which are the natural increase of animals kept by persons not operating a kennel as herein defined; nor shall selling be determined to include isolated sales of animals over four (4) months old by persons not operating a kennel as herein defined.
- (55) *Large lot roadway easement:* A private thoroughfare which provides a means of access to lots with a large lot subdivision.

- (56) *Loading space*: A durably paved, properly graded for drainage, off-street space used for the loading and unloading of vehicles, except passenger vehicles, in connection with the use of the property on which such space is located. Each such designated space shall comply with the dimensional requirements set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.
- (57) *Lot*: A platted parcel of land intended to be separately owned, developed, and otherwise used as a unit.
- (58) *Lot, corner*: A platted parcel of land abutting two (2) road rights-of-way at their intersection.
- (59) *Lot (parcel) of record*: A lot which is part of a subdivision, the plat of which has been legally approved and recorded in the Office of the Recorder of Deeds of St. Louis County, or a parcel of land which was legally approved and the deed recorded in the Office of the Recorder of Deeds.
- (60) *Mall*: An enclosed public way upon which business establishments have direct access and which serves primarily for the movement of pedestrians, with trees, benches, or other furnishings provided and with vehicular access prohibited, restricted, or reduced so as to emphasize pedestrian use.
- (61) *Material improvement*: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition "material improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living-conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.
- (62) *Medical or dental office (clinic)*: A facility for the practice of medicine or dentistry for humans, including accessory diagnostic laboratories, but not including in-patient or overnight care, or operating rooms for major surgery.
- (63) *Multiple-family access easement*: A private thoroughfare which provides a means of access to parking areas and bays and to abutting buildings which are developed solely or principally as multiple-family dwellings.
- (64) *Nonconforming land use or structure*: A land use or structure which existed lawfully on the date that this Zoning Ordinance or any amendment thereto became effective and which fails to conform to one or more of the applicable regulations in the Zoning Ordinance or amendment thereto, except minimum lot area, yard and setback requirements.
- (65) *Nursery, day*: A building used for the supervision and care of five (5) or more preschool children, other than those of the operator, during daylight hours.
- (66) *Nursery school*: A prekindergarten school for children, primarily between the ages of three (3) and five (5), as licensed by the State of Missouri.
- (67) *Nursing home*: A building intended for use as a medical care facility for persons who need nursing care and medical service, but do not require intensive hospital care, as licensed by the State of Missouri.
- (68) *Office*: A building or portion of a building wherein services are performed involving

- (69) *Parcel (tract) of land*: A separately designated area of land delineated by identifiable legally recorded boundary lines.
- (70) *Park*: An area open to the general public and reserved for recreational, educational or scenic purposes.
- (71) *Parking area*: An area of land used or intended for off-street parking facilities for motor vehicles.
- (72) *Parking space*: A durably paved, properly graded for drainage, usable space, enclosed in a main building or in an accessory building, or unenclosed, reserved for the temporary storage of one vehicle, and connected to a street, alley, or other designated roadway by a surfaced aisle or driveway. Each such designated space shall comply with the dimensional requirements set forth in Section 220, "Off Street Parking and Loading Requirements," of this Zoning Ordinance.
- (73) *Parkway*: A road or roadway intended to be used primarily for passenger vehicles and developed with a park-like or scenic character, with recreational uses.
- (74) *Pave (pavement)*: The act or result of applying a hard, water-tight material to any ground surface in such manner as to present a uniform surface over large areas.
- (75) *Plat*: A subdivision of land legally approved and recorded.
- (76) *Plant nursery*: A farm, garden, or other cultivated land together with accessory structures designed and intended to be used only for the cultivation and sale of live vegetation.
- (77) *Property line*: The legally recorded boundary of a lot, tract, or other parcel of land.
- (78) *Public utility facility, local*: A public utility facility serving a local area only, such as an electric substation, a water or gas pumping or regulating station, a telephone switching center.
- (79) *Residence*: Any building which is designed or used exclusively for residential purposes, except hotels and motels.
- (80) *Retreat*: A building or group of buildings with designated open areas utilized and maintained for educational and religious conclaves, seminars, and similar activities by particular educational, religious, fraternal or other groups, but specifically excluding overnight lodging functions.
- (81) *Riding stable*: A building and designated site intended or used as a shelter for horses or ponies, which provides for commercial boarding, hire, sale, or training of such animals.
- (82) *Roadway*: The entire improved area within public or private vehicular easement or right-of-way lines.
- (83) *Roadway right-of-way line*: The boundary which divides a lot from a public or private roadway.
- (84) *Sanitary landfill*: A type of operation in which refuse and earth or other suitable cover material is deposited in alternate layers of specified depth in accordance with a definite plan on a specified portion of open land, with each layer being compacted by force applied by mechanical equipment. Part of this operation may include the composting of yard wastes, as authorized on an improved plan. Such operation must be licensed by the appropriate local, state and federal authorities.
- (85) *Self care unit*: A nursing facility located on the same premises as a full care nursing home and providing semi-independent apartment style living accommodations for residents, including separate cooking facilities for each living unit or cluster of living units.
- (86) *Semi-finished material*: Material which has gone through one or more stages of processing.
- (87) *Setback (building line)*: The required minimum distance from a road right-of-way or lot line that establishes the area within which a structure can be erected or placed, except as may be

- (88) *Sight distance triangle*: The triangular area of a corner lot bound by the property lines and a line connecting the two (2) points on the property lines thirty (30) feet from the intersection of the property lines.
- (89) *Sign*: A structure or device designed or intended to convey information to the public in written or pictorial form. Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.
- (90) *Specialized private schools*: An institution for students at the elementary, junior or senior high level who have physical or mental characteristics which require specialized or individual instruction.
- (91) *Stable, private*: A detached building accessory to a residential use for the keeping of horses owned by the occupants of the premises and which shall not be used for any commercial purpose, including the boarding, hire, sale, or training of horses.
- (92) *Story*: The horizontal segment of a building between the floor surface and the ceiling next above it, and wholly above grade.
- (93) *Street*: A paved public or private vehicular right-of-way which provides access to abutting properties from the front.
- (94) *Structure*: Any assembly of material forming a construction for occupancy or use, including, without limitation, decks; swimming pools, whether in-ground or above ground; storage buildings, whether prefabricated or built in place; satellite dishes exceeding eighteen (18) inches in diameter; and similarly related devices, excepting, however, utility poles and appurtenances thereto, underground distribution or collection pipes or cables, and underground or ground level appurtenances thereto.
- (95) *Substantial construction, development or work*: "Actual construction" is hereby defined to be the placing of construction materials of a building in permanent position and fastened in a permanent manner upon or in the foundation or basement excavation of a building. The previous recordings of a subdivision plat; the grading of land; the installation of sanitary sewers if such are not permanently positioned and permanently fastened in or upon the foundation or basement excavation of a building; the construction of streets or sidewalks. The installation of utility supply lines, if such are not permanently positioned and permanently fastened to a building, or in or upon the foundation or basement excavation of a building, shall not be deemed for the purpose of this ordinance as constituting actual construction of a building. In a project involving no structures or insignificant structures, the completion of grading.
- (96) *Tavern*: A building or lot of record or tract of land where liquors or other alcoholic beverages are sold to be consumed on the premises.
- (97) *Use*: As utilized in this Zoning Ordinance, "use" is any functional, social, or technological activity, which is imposed or applied to land or to structures on the land.
- (98) *Vehicle service center*: Any structure or premises used for the servicing and minor repair of vehicles within enclosed service bays or stalls, including diagnostic services, lubrication of vehicles, and minor engine repair such as tune-ups, and the sale and installation of minor parts and accessories such as tires, batteries, shock absorbers, brakes, mufflers and tail pipes. This use shall not include any establishment engaged in major repair work such as the installation or removal of engines, radiators, transmissions, differential, fenders, doors, bumpers or other major body or mechanical parts, spray painting, tire recapping or vulcanizing, or the storage of wrecked or damaged and immobilized vehicles.

- (100) *Warehouse*: A structure for use as a storage place for goods, materials or merchandise.
- (101) *Yard*: An open area between the structure setback lines of a lot as established by the regulations of a particular zoning district, and the property lines of the same lot.
- (102) *Yard, front*: A space extending across the entire front of a lot between the structure setback line as required by the regulations of a particular zoning district and the roadway right-of-way line.
- (103) *Yard, rear*: A space opposite the front yard, extending across the entire rear of a lot between the structure setback line as required by the regulations of a particular zoning district and the rear lot line.
- (104) *Yard, side*: A space extending between the structure setback line as required by the regulations of a particular zoning district and the side lot lines measured between the front yard and the rear yard.
- (105) *Yard wastes*: Materials produced as a result of lawn and garden care and maintenance, including leaves, grass clippings, yard and garden vegetation, shrubs, vegetable and flower garden wastes, brush, and trees (and Christmas trees), but not including stumps, roots, or shrubs with intact root balls.
- (106) *Zoning Map*: The District Zoning Map, City of Black Jack.
- (107) *Zoning Ordinance*: This ordinance and all amendments thereto.
- (Ord. No. 742, § 2, 2-19-02; Ord. No. 803, § 1, 10-21-03; Ord. No. 893, § 1, 9-19-06; Ord. No. 942, § 1, 7-15-08)

Sec. 040. - Establishment of Districts-Zoning Map.

1. For the purpose of this ordinance, the city is divided into the following districts:

District Classification	Code Designation
FP Floodplain	FP
PS Park and Scenic	PS
NU Non-Urban	NU
R-1 Residence (one acre)	R-1
R-2 Residence (15,000 sq. ft.)	R-2
R-3 Residence (10,000 sq. ft.)	R-3
R-6A Residence (4,000 sq. ft.)	R-6A
C-1 Neighborhood Shopping	C-1
C-2 Shopping	C-2
C-6 Office and Research Service	C-6

C-8 Planned Commercial	C-8
MXD Mixed Use Development District	MXD

2. The boundaries of these districts are hereby established as shown on the District Zoning Map, City of Black Jack consisting of a map, as adopted by Ordinance 282, together with all subsequent amendments thereto. All district classifications, however, need not appear on the zoning map at one time. Official copies of said map shall be maintained in the Department of Public Works and shall be public records. All subsequent amendments to the Zoning Map shall be designated on said official copies. The Planning and Zoning Commission may, in its discretion, cause the Zoning Map and its official copies thereof to be photographed, microphotographed, photostated or reproduced on file, which maps when so reproduced shall be deemed to be an original record for all purposes.
3. *Floodplain and Floodway Map.* For the purpose of this Zoning Ordinance and the Zoning Map, the areas designated special flood hazard and floodway upon the flood insurance rate maps and flood boundary and floodway maps adopted by Chapter 7 of this Code, as the same may be amended from time to time by ordinance, shall constitute the "FP" Floodplain District and floodway of the city.

Sec. 050. - Interpretation and Extension of District Boundaries.

1. The Board of Adjustment shall interpret the provisions of this ordinance in accordance with Section 400.3 of this Zoning Ordinance. Any area within the geographical boundaries of the City shall be in the "NU" Non-Urban District classification until changed by ordinance designating another district classification to such area.
2. In the event that a zoning district boundary line is shown on the Zoning Map as following a property line or a political boundary line, the actual location of such zoning district boundary line shall govern, as determined by survey, rather than the representation of the location of said boundary line on the Zoning Map, if there is a discrepancy between the two (2) locations.

Sec. 060. - District Regulations.

The use and development of land and structures within any zoning district are limited to those uses and developments set forth in those sections of this ordinance applicable to such district.

Sec. 070. - "FP" Floodplain District Regulations.

1. *Purpose and intent.* The "FP" Floodplain District of the City encompasses land subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare. These flood losses are caused by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods or hazardous to other lands which are inadequately elevated, flood proofed, or otherwise protected from flood damages.

This section is therefore necessary to protect human life and health; to minimize expenditure of public money for costly flood control projects; to minimize the need for rescue and relief efforts

prolonged business interruptions; to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and to help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas.

It is the purpose of this section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion or in flood heights or velocities; require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction; control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters; and control filling, grading, dredging and other development which may increase erosion or flood damage.

2. *Scope of provisions.* This section contains the regulations for the "FP" Floodplain District of the City. Property zoned "FP" is also zoned under another applicable district governed by this Zoning Ordinance. The "FP" District constitutes an "overlay" district, and the other applicable zoning district constitutes the underlying zoning. This section controls in the case of any conflict between the regulations contained in this section and the regulations otherwise applicable to any property by virtue of its "underlying" zoning.

All of the area within the "FP" District is the floodplain, as defined in this Zoning Ordinance, and is subject to all of the provisions of this section. A portion of the area within this district is designated as the floodway, as established by the maps applicable to this district. Property within the floodway is subject to those provisions of this section which so state.

3. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:

- (1) Boat docks for other than commercial or industrial use.
- (2) Farms.
- (3) Golf courses, excluding clubhouse.
- (4) Fishing and propagation of wildlife.
- (5) Local public utility facilities of one hundred thousand (100,000) cubic feet in volume or less, provided that any installation, other than poles and equipment attached to the poles, shall be:
  - (a) adequately screened with landscaping, fencing or walls, or any combination thereof, or
  - (b) placed underground, or
  - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.

- (6) Public parks.
- (7) Scenic areas.
- (8) Swimming pools.
- (9) Wildlife refuges.

- (10) Portions of single-family lots when a contiguous area is provided for each lot which is either out of the floodplain or removed from flooding in accordance with subsection 12 of this section or both, provided that such contiguous area must provide the minimum lot area required by the applicable zoning district or special procedure permit or one (1) acre, whichever is less.
4. *Conditional land use and development permits issued by the Planning and Zoning Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:
- (1) Heliports.
  - (2) Facilities for the composting of yard wastes.
  - (3) Local public utility facilities over one hundred thousand (100,000) cubic feet in volume.
  - (4) Outdoor archery ranges.
  - (5) Port and dock facilities.
  - (6) Public utility facilities.
  - (7) Railroad tracks and associated structures.
  - (8) Recreational uses such as athletic fields and picnic grounds.
5. *Conditional land use and development, based on underlying zoning, issued by the Planning and Zoning Commission.* The following land uses and developments, if permitted or conditional uses in the underlying zoning district applicable to the property, may be authorized in this district under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:
- (1) Sewage treatment plants.
  - (2) Miniature golf courses and golf driving ranges.
6. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:
- (1) Devices for the generation of energy, such as solar panels, wind generators or similar devices.
  - (2) Individual sewage treatment facilities serving an individual nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.

Accessory uses in this district do not include residences.

7. *Performance standards.* All uses in the "FP" Floodplain District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
8. *Height limitations for structures.* The total height of any structure shall not exceed that permitted in the underlying zoning district, except where the use of the property includes structures restricted in height by the requirements of a conditional use permit.
9. *Lot area and yard requirements.* The minimum lot area and yard requirements for land uses in the "FP" Floodplain District shall be as set out below:

(1) Minimum lot area requirement:

- (a) The following permitted land uses shall be situated on tracts of land providing not less than the following areas:

Use	Minimum Area
Farms	20 acres
Golf Courses	5 acres

- (b) Permitted and conditional land uses shall be situated on tracts of not less than the minimum lot area required by the provisions of the underlying zoning district regulations.

(2) Yard requirements: General:

- (a) Front yards. No structure shall be allowed within twenty-five (25) feet of any roadway right-of-way line.
- (b) No residential building or structure attached thereto shall be allowed within twenty-five (25) feet of any area not removed from flooding in accordance with subsection 12 of this section.

(3) Specific yard requirements and exceptions:

- (a) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
- (b) Any structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one additional foot for every foot of height above thirty (30) feet.

10. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.
11. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.
12. *Use and development of floodway.* All development or use of the floodway involving any encroachment, including fill, new construction or material improvement of any existing structure is prohibited unless certification by a registered professional engineer is provided to, and approved by, the Planning and Zoning Commission, that the development will not result in any increase in flood levels during occurrence of the base flood discharge. If, and only if, this subsection is complied with, use or development of the floodway may be carried out subject to the restrictions of the remainder of this section.
13. *Use and development under underlying district regulations.* Property in this district may be used and developed in accordance with the regulations of the underlying zoning upon compliance with the following procedure:
- (1) The property is placed in such condition as to, effectively and without increasing the flooding problems of other properties, remove the property from flooding based on the flood elevation study approved by the United States Federal Emergency Management Agency ("FEMA") and used

as basic data for determining the boundaries of the flood hazard boundary map, being the "FP" Floodplain District as governed by this section. Effective removal of the property from flooding requires provision of adequate freeboard as determined by the Director of Public Works in light of the reasonably anticipated ultimate development of the watershed. If the standards required by this subsection are satisfactorily met in respect to any lot or tract of land in the "FP" Floodplain District, the property may then be used for such uses and under such regulations as are contained in the district regulations of the district designated after the "FP" code designation as the underlying district for the particular property.

(2) (a)

The property owner or user shall submit to the Director of Public Works a plan for flood protection. The plan shall be approved if its implementation would adequately protect against the amount of water that would flow past the property in cubic feet per second during the base flood, as determined by the flood elevation study approved by FEMA and used as basic data for determining the boundaries of the flood insurance rate map and the flood hazard boundary map, and if the plan further demonstrates that its implementation will not increase the flooding problems of other properties. With respect to any stream for which a floodway has not been designated, the flooding problems of other properties will be deemed increased if implementation of the plan would decrease the water storage or conveyance capacity of the stream.

(b) The plan must include a report by a registered professional engineer of demonstrated competence in hydrology as to the adequacy of the proposed plan for flood protection relative to the elevation of the floodplain and the flow as determined in the flood elevation study approved by FEMA, the effect of the proposed improvement on the flood problems of other properties, and such other hydrologic problems as may result from the improvements. Where the plan only delineates the floodplain elevation on the ground and no change or construction is proposed involving land below the floodplain elevation, the plan may be submitted under the seal of a registered land surveyor.

(c) The Director of Public Works may require such additional data or engineering studies from the applicant as may be necessary to determine the adequacy of the proposed plan for flood protection.

14. *Use and development in the "FP" Floodplain District.* No use or development in this district shall increase the flooding problems of other properties. Prior to any use or development of property pursuant to the permitted or conditional uses designated in this district, if such use or development involves manmade change to real property below the flood elevation, including construction or erection of any building or structure, or any filling, grading, paving, mining, dredging, excavation or drilling, the following procedure shall be complied with:

(1) The property owner or user shall submit to the Director of Public Works a development plan. The plan shall be approved if it demonstrates that its implementation will not increase the flooding problems of other properties. With respect to any stream for which a floodway has not been designated, the flooding problems of other properties will be deemed increased if implementation of the plan would decrease the water storage or conveyance capacity of the stream.

(2) The plan shall include a report by a registered professional engineer of demonstrated competence in hydrology as to the adequacy of the proposed plan to avoid flooding problems of

Where the plan only delineates the floodplain elevation on the ground and no change or construction is proposed involving land below the floodplain elevation, the plan may be submitted under the seal of a registered land surveyor.

- (3) The Director of Public Works may require such additional data or engineering studies from the applicant as may be necessary to determine the adequacy of the proposed plan.

15. *Effect of plan approval.*

- (1) The approval by the Planning and Zoning Commission of such plans for flood protection does not constitute a representation, guarantee, or warranty of any kind by the City, the Planning and Zoning Commission or by any officer or employee of either as to the practicality or safety of any protective measure and shall create no liability upon or cause of action against such public body, officers, or employees for any damage that may result pursuant thereto.
- (2) Approval of the plan by the Planning and Zoning Commission does not relieve an owner or user from fulfilling the requirements set forth in any other ordinance enacted by the City regarding construction or development within the floodplain.

**Cross reference—** Drainage and flood control, Ch. 7.

Sec. 080. - "PS" Park and Scenic District Regulations.

1. *Scope of provisions.* This section contains the district regulations of the "PS" Park and Scenic District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference. The "PS" Park and Scenic District encompasses land, owned by public agencies or in which public agencies have some lesser legal interest, which has recreational, scenic and health value. This district may also include land having recreational, scenic and health value, when owned by not-for-profit organizations or in which such organizations have some lesser legal interest upon the application and approval of a petition for change of zoning by such a not-for-profit organization. This district is established to preserve the community's cultural values by preserving this land in an essentially natural or native condition.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
  - (1) Fire stations.
  - (2) Historic sites and buildings.
  - (3) Local public utility facilities of one hundred thousand (100,000) cubic feet in volume or less, provided that any installation other than poles and equipment attached to the poles, shall be:
    - (a) adequately screened with landscaping, fencing, or walls, or any combination thereof, or
    - (b) placed underground, or
    - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.
  - (4) Natural or primitive areas and forests encompassed by the provisions of the Missouri State Forestry Law.
  - (5) Public parks and parkways.

- (6) Wildlife habitats and fish hatcheries.
3. *Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:
  - (1) Camping, lodging, swimming, picnicking, boating, fishing, hiking, and wildlife observation facilities and customary service facilities necessary to provide the direct support for such activities.
  - (2) Facilities for the composting of yard wastes.
  - (3) Golf courses and driving ranges. Miniature golf courses are excluded.
  - (4) Public utility lines and pipelines, underground.
  - (5) Restaurants and other dining facilities.
  - (6) Retreats owned and operated by religious, educational or other not-for-profit establishments.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:
  - (1) Devices for the generation of energy, such as solar panels, wind generators and similar devices.
  - (2) Dwellings, accessory buildings and structures for the exclusive use of park-operation personnel.
  - (3) Individual sewage treatment facilities serving an individual dwelling or nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow. However, where a treatment facility is wholly within and provides service exclusively for uses within a City park, an individual sewage treatment facility exceeding five thousand (5,000) gallons per day flow may be approved by the regulatory agency after receipt of a report from the Park and Recreation Board and Director of Public Works relating to the operational characteristics of the treatment facility.
5. *Performance standards.* All uses in the "PS" Park and Scenic District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Front yard requirements; general.* No structure shall be allowed within twenty-five (25) feet of any roadway right-of-way line.
7. *Specific yard requirements and exceptions.*
  - (1) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding a height of three (3) feet above the elevation of the street pavement shall be allowed within the sight distance triangle.
  - (2) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.
  - (3) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission.

*Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.

9. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

Sec. 090. - "NU" Non-Urban District Regulations.

1. *Scope of provisions.* This section contains the district regulations of the "NU" Non-Urban District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference. The "NU" Non-Urban District of the City encompasses areas within which rough natural topography, geological conditions, or location in relation to urbanized areas creates practical difficulties in providing and maintaining public roads, and public or private utility services and facilities. The "NU" Non-Urban District also encompasses areas where specific potential development patterns have not been identified or where significant non-urban uses have been established.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
  - (1) Churches.
  - (2) Commercial vegetable and flower gardening, as well as plant nurseries and greenhouses, but not including any structure used as a salesroom.
  - (3) Day care homes licensed by the appropriate governmental authority.
  - (4) Dwelling, single-family.
  - (5) Farms.
  - (6) Forests, wildlife reservations, as well as conservation projects.
  - (7) Golf courses or practice driving tees. Miniature golf courses are excluded.
  - (8) Home occupations.
  - (9) Fishing and propagation of wildlife of any kind.
  - (10) Libraries, public or private not-for-profit.
  - (11) Local public utility facilities sixty (60) feet or less in height or one hundred thousand (100,000) cubic feet in volume or less, provided that any installation other than poles and equipment attached to the poles shall be:
    - (a) adequately screened with landscaping, fencing, or walls, or any combination thereof, or
    - (b) placed underground, or
    - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.
  - (12) Mausoleums in an existing cemetery, any other provision of the law notwithstanding, but no such structure shall be situated closer than one hundred (100) feet to any property line.
  - (13) Parks, parkways, and playgrounds, public or private not-for-profit.
  - (14) School, public or private kindergarten, secondary, and collegiate.
  - (15) School, public or private elementary, on a tract of land of at least five (5) acres.

*Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:

- (1) Administrative offices and educational facilities for religious purposes.
- (2) Blacksmiths.
- (3) Cemeteries, including mortuaries operated in conjunction with the cemetery.
- (4) Child care centers, nursery schools, and day nurseries.
- (5) Clubs, private not-for-profit.
- (6) Extraction of raw materials from the earth and the processing of these raw materials, but not including the manufacturing of a product.
- (7) Facilities for the composting of yard wastes.
- (8) Fairgrounds.
- (9) Feed or grain storage, commercial or co-operative.
- (10) Foster homes for handicapped children.
- (11) Golf courses and practice driving tees, which may or may not be illuminated.
- (12) Group homes for the developmentally disabled, to be occupied by no more than nine (9) individuals (excluding supervisory personnel), not related by blood or marriage to the operator or operators of the facility.
- (13) Group homes for the elderly.
- (14) Heliports.
- (15) Hospitals and hospices.
- (16) Local public utility facilities over sixty (60) feet in height or over one hundred thousand (100,000) cubic feet in volume.
- (17) Mulching plants for trees, wood, or wood waste, but not including any assembly or manufacture of a product.
- (18) Nursing homes, including self-care units.
- (19) Police and fire stations.
- (20) Public utility facilities.
- (21) Radio, television, and communication transmitting, receiving, or relay towers and facilities.
- (22) Recreational camps and camping facilities.
- (23) Recreational land uses, commercial or not-for-profit.
- (24) Retreats owned and operated by religious, educational, or other not-for-profit establishments and religious convents.
- (25) Riding stables, kennels, and veterinary clinics which shall be located at least one hundred (100) feet from the boundaries of the property involved.
- (26) Salesrooms, when established as an accessory use to commercial gardens, plant nurseries, and greenhouses, for the sale of nursery products and related items for use in preserving the life and health of such products, hand tools, and plant containers. The preceding items shall not include power-driven equipment, lawn and garden furniture nor decorative accessories, fencing, nor bulk sale of sand, gravel, mulch, railroad ties or similar materials. The salesroom may occupy all or a portion of a building.

- (28) Schools, public or private elementary, on a tract of land of at least three (3) acres but less than five (5) acres.
  - (29) Sewage treatment facilities, other than individual sewage treatment facilities permitted as an accessory use.
  - (30) Specialized private schools.
  - (31) Stadiums and sports arenas.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:
- (1) Devices for the generation of energy, such as solar panels, wind generators, and similar devices.
  - (2) Individual sewage treatment facilities serving an individual dwelling, farm, or nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.
  - (3) Private stables which shall be located at least one hundred (100) feet from the boundaries of the property involved.
5. *Performance standards.* All uses in the "NU" Non-Urban District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Lot area and yard requirements.* The minimum lot area and yard requirements for land uses and developments in the "NU" Non-Urban District shall be as set out below:
- (1) Minimum lot area requirements:
    - (a) The following permitted and conditional land uses shall be situated on tracts of land providing not less than the following areas:

Use	Minimum Area
Administrative offices and educational facilities—religious	4 acres
Child care center	3 acres
Church	3 acres
Dwelling, single-family	3 acres
Group homes for the developmentally disabled	5 acres
Group homes for the elderly	5 acres
Mechanical sewage treatment facility	5 acres

Nursery or day nursery	1 acre
Kindergarten (separate)	3 acres
Elementary (permitted use)	5 acres
Elementary (conditional use)	3 acres
Junior High	10 acres
Senior High	20 acres
Collegiate	20 acres

- (b) Any lot or tract of record on the effective date of this ordinance, which contains less than three (3) acres, may be used as a site for one single-family dwelling together with customary accessory structures and uses.
  - (c) Specialized private schools shall be located on a tract of land containing one acre for each fifteen (15) pupils, but in no case less than five (5) acres.
  - (d) Mechanical sewage treatment facilities may be located on tracts of land less than five (5) acres in area where the facility is located on platted common land within a subdivision.
  - (e) Police and fire stations as approved by the Planning Commission via a conditional use permit may be established on tracts of less than five (5) acres where the related parking needs, outdoor facilities and size of buildings are deemed consistent with the intensity of land use in the neighborhood of these uses.
  - (f) All other permitted or conditional land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area.
- (2) Creation of new lots: No new lots shall be created less than three (3) acres in area except for fire stations, police stations, nurseries or day nurseries, and local public utility facilities. Lots less than three (3) acres in area, created for the above uses, shall not be used for any other use. In the event the permitted use terminates, the lot shall be established as common ground for an adjacent development or combined with an adjacent parcel or parcels by means of a boundary adjustment. Prior to the approval of a subdivision record plat creating a lot of less than three (3) acres, a deed or other legal instrument must be approved by the City Attorney and recorded with the St. Louis County Recorder of Deeds, which guarantees the required transfer of the property in the event the permitted use is terminated.
- (3) Minimum yard requirements; general:
- (a) Front yard: No structure shall be allowed within fifty (50) feet of any roadway right-of way line.
  - (b) Side and rear yard: No structure shall be allowed within twenty (20) feet of any property line other than a roadway right-of-way line.

- (a) Notwithstanding any other provisions of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
  - (b) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.
  - (c) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission. Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
  - (d) In the event that greater than fifty (50) percent of the existing dwelling structures on the same side of a street and in both directions from a lot, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a variation in front yard setbacks of no more than ten (10) feet, the required front yard for that lot shall be the average setback of those structures. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than seventy-five (75) feet be required.
  - (e) If a lot of record existing on the effective date of this ordinance has a width of one hundred (100) feet or less, the side yard on each side of any structure erected on such lot may, be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instances shall such yard be less than five (5) feet in width.
  - (f) Any nonresidential structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one additional foot for every foot of height above thirty (30) feet.
  - (g) No private stable shall be allowed within one hundred (100) feet of any property line. Affiliated pasture areas shall be fenced.
- (5) Maximum height and minimum yard requirements for nursing homes:
- (a) No building within a nursing home development shall exceed a height of three (3) stories or forty-five (45) feet above the average ground elevation at the perimeter of the building, whichever is less.
  - (b) No building within a nursing home development shall be allowed within a minimum of fifty (50) feet of any property line.
7. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.
8. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

#### Sec. 100. - Urban Residence Districts Regulations.

The Urban Residence District regulations of the City as differentiated herein and the district locations as shown on the Zoning Map reflect the wide variety of physical and social conditions and characteristics found in the City, to the extent that the range of such conditions and characteristics can be divided into meaningful categories. It is the purpose of these regulations to encourage the creation and maintenance of stable and enduring residential communities by establishing limitations on the use and character of

development of land so as to take advantage of, or to avoid conflicts with, natural topography, existing developments, arrangements and location of existing or planned community facilities, and social needs of the community.

Sec. 110. - "R-1" Residence District Regulations.

1. *Scope of provisions.* This section contains the district regulations of the "R-1" Residence District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
  - (1) Churches.
  - (2) Commercial vegetable and flower gardening as well as plant nurseries and greenhouses, but not including any structure used as a salesroom.
  - (3) Day care homes licensed by the appropriate governmental authority.
  - (4) Dwellings, single-family.
  - (5) Farms.
  - (6) Forests and wildlife reservations as well as conservation projects.
  - (7) Home occupations.
  - (8) Libraries, public or private not-for-profit.
  - (9) Local public utility facilities forty five (45) feet or less in height or one hundred thousand (100,000) cubic feet in volume or less, provided that any installation, other than poles and equipment attached to the poles, shall be:
    - (a) adequately screened with landscaping, fencing or walls, or any combination thereof, or
    - (b) placed underground, or
    - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.
  - (10) Parks, parkways, and playgrounds, public or private not-for-profit.
  - (11) Schools, public kindergarten, elementary, secondary and collegiate.
3. *Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:
  - (1) Administrative offices and educational facilities for religious purposes.
  - (2) Child care centers, nursery schools, and day nurseries.
  - (3) Private, not-for-profit clubs, private, not-for-profit recreational land uses, and community centers.
  - (4) Foster homes for handicapped children.
  - (5) Golf courses and practice driving tees, which are non-illuminated. Miniature golf courses are excluded.
  - (6)

Group homes for the developmentally disabled, to be occupied by no more than nine (9) individuals (excluding supervisory personnel) not related by blood or marriage to the operator or operators of the facility.

- (7) Group homes for the elderly.
  - (8) Hospitals and hospices.
  - (9) Local public utility facilities over forty-five (45) feet in height or one hundred thousand (100,000) cubic feet in volume.
  - (10) Nursing homes.
  - (11) Police and fire stations.
  - (12) Public utility facilities.
  - (13) Retreats owned and operated by religious, educational, or other not-for-profit establishments.
  - (14) Salesrooms for commercial gardens, plant nurseries, and greenhouses on a tract of land not less than three (3) acres.
  - (15) Schools, public or private elementary, on a tract of land of at least three (3) acres but less than five (5) acres.
  - (16) Sewage treatment facilities, other than individual sewage treatment facilities permitted as an accessory use.
  - (17) Specialized private schools.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Detached above-ground accessory structures shall not cover more than a total of seven (7) percent of the lot area. Accessory uses include the following:
- (1) Devices for the generation of energy, such as solar panels and similar devices.
  - (2) Individual sewage treatment facilities serving an individual dwelling, farm, or nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.
5. *Performance standards.* All uses in the "R-1" Residence District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Height limitations for structures.* The maximum height of structures in the "R-1" Residence District shall be as set out below:
- (1) No building elevation of any dwelling structure or building accessory to a dwelling structure shall exceed three (3) stories or forty-five (45) feet in height, whichever is less.
  - (2) All other structures, other than a local public utility facility authorized by a conditional use permit, shall not exceed sixty (60) feet in height above the average finished ground elevation at the perimeter of such structure.
7. *Lot area, yard, and density requirements.* The minimum lot area and yard requirements for land uses and developments in the "R-1" Residence District as well as the maximum density of nursing home

(1) Minimum lot area requirements:

- (a) The following permitted and conditional land uses shall be situated on tracts of land providing not less than the following areas:

Use	Minimum Area
Administrative offices and educational facilities—religious	3 acres
Child care center	1 acre
Church	3 acres
Dwelling, single-family	1 acre
Group homes for the developmentally disabled	1 acre
Library	3 acres
Local public utility facilities	15,000 sq. ft.
Mechanical sewage treatment facility	1 acre
Schools:	
Nursery or day nursery	1 acre
Kindergarten (separate)	3 acres
Elementary (permitted use)	5 acres
Elementary (conditional use)	3 acres
Junior High	10 acres
Senior High	20 acres
Collegiate	20 acres

- (b) Any lot or tract of record on the effective date of this ordinance, which contains less than one (1) acre, may be used as a site for one single-family dwelling together with accessory structures and uses.
- (c) Foster homes to handicapped children, group homes for the elderly and not-for-profit private clubs and recreational land uses, including community centers, as approved by the Planning and Zoning Commission via a conditional use permit may be established on tracts

of land less than five (5) acres where the related parking needs, outdoor facilities, size of buildings and maximum membership of the developments and uses are deemed consistent with the intensity of land use in the neighborhood of the uses and developments. However, the minimum tract area for the conditional developments and uses shall not be less than one (1) acre.

- (d) Police and fire stations as approved by the Planning Commission via a conditional use permit may be established on tracts of land less than five (5) acres where the related parking needs, outdoor facilities and size of buildings are deemed consistent with the intensity of land use in the neighborhood of these uses.
  - (e) Specialized private schools shall be located on a tract of land containing one acre for each fifteen (15) pupils, but in no case less than five (5) acres.
  - (f) Mechanical sewage treatment facilities may be located on tracts of land less than one (1) acre in an area where the facility is located on platted common land within a subdivision. The minimum lot area, however, shall in no case be less than fifteen thousand (15,000) square feet.
  - (g) All other permitted or conditional land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area.
- (2) Creation of new lots. No new lots shall be created less than one (1) acre in area except for fire stations, police stations, and local public utility facilities. Lots less than one (1) acre in area, created for the above uses, shall not be used for any other use; and, in the event the permitted use terminates, the lot shall be established as common ground for an adjacent development or combined with an adjacent parcel or parcels by means of a boundary adjustment. Prior to the approval of a subdivision record plat creating a lot of less than one (1) acre, a deed or other legal instrument must be approved by the City Attorney and recorded with the St. Louis County Recorder of Deeds, which guarantees the required transfer of the property in the event the permitted use is terminated.
- (3) Minimum yard requirements; general:
- (a) Front yard: No structure shall be allowed within thirty (30) feet of any roadway right-of-way line.
  - (b) Side and rear yard: No structure shall be allowed within fifteen (15) feet of any property line other than a roadway right-of-way line.
  - (c) No rear yard line will be permitted coincidental with a roadway right-of-way line.
- (4) Specific yard regulations and exceptions:
- (a) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
  - (b) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.
  - (c) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission. Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.

- (d) In the event that greater than fifty (50) percent of the existing dwelling structures on the same side of a street and in both directions from a lot, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a variation in front yard setbacks of no more than ten (10) feet, the required front yard for that lot shall be the average setback of those structures. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than fifty (50) feet be required.
  - (e) If a lot of record existing on the effective date of this ordinance has a width of seventy-five (75) feet or less, the side yard on each side of any structure erected on such lot may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instances shall such yard be less than five (5) feet in width.
  - (f) Any nonresidential structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one additional foot for every foot of height above thirty (30) feet.
- (5) Maximum density, maximum height and minimum yard requirements for nursing homes:
- (a) Densities of self care units shall not exceed ten (10) units per acre.
  - (b) No building within a nursing home development shall exceed a height of three (3) stories or forty-five (45) feet above the average ground elevation at the perimeter of the building, whichever is less.
  - (c) No building within a nursing home development shall be allowed within a minimum of fifty (50) feet of any property line.
8. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.
9. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.
- Sec. 120. - "R-2" Residence District Regulations.
1. *Scope of provisions.* This section contains the district regulations of the "R-2" Residence District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
- (1) Churches.
  - (2) Day care homes licensed by the appropriate governmental authority.
  - (3) Dwellings, single-family.
  - (4) Forests and wildlife reservations as well as conservation projects.
  - (5) Home occupations.
  - (6) Libraries, public or private not-for-profit.
  - (7) Local public utility facilities forty-five (45) feet or less in height or one hundred thousand (100,000) cubic feet in volume or less, provided that any installation, other than poles and equipment attached to the poles, shall be:
    - (a) adequately screened with landscaping, fencing or walls, or any combination thereof, or
    - (b) placed underground, or

enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.

- (8) Parks, parkways, and playgrounds, public or private not-for-profit.
  - (9) Schools, public or private kindergarten, secondary, and collegiate.
  - (10) Schools, public or private elementary, on a tract of land of at least five (5) acres.
3. *Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:
- (1) Child care centers, nursery schools, and day nurseries.
  - (2) Private, not-for-profit clubs; private, not-for-profit recreational land uses, and community centers.
  - (3) Foster homes for handicapped children.
  - (4) Golf courses or practice driving tees, which are non-illuminated. Miniature golf courses are excluded.
  - (5) Group homes for the developmentally disabled to be occupied by no more than five (5) individuals (excluding supervisory personnel) not related by blood or marriage to the operator or operators of the facility.
  - (6) Group homes for the elderly.
  - (7) Group living facilities providing a permanent residence for not more than five (5) individuals, all over eighteen (18) years of age and who are ordained or hold a designated religious position with the same religious institution.
  - (8) Hospitals and hospices.
  - (9) Local public utility facilities over forty-five (45) feet in height or over one hundred thousand (100,000) cubic feet in volume.
  - (10) Nursing homes.
  - (11) Police and fire stations.
  - (12) Public utility facilities.
  - (13) Retreats owned and operated by religious, educational, or other not-for-profit establishments.
  - (14) Schools, public or private elementary, on a tract of land of at least three (3) acres but less than five (5) acres.
  - (15) Sewage treatment facilities, other than individual sewage treatment facilities permitted as an accessory use.
  - (16) Specialized private schools.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use,

and serves only to further the successful utilization of the primary use. Detached above-ground accessory structures shall not cover more than a total of seven (7) percent of the lot area. Accessory uses include the following:

- (1) Devices for the generation of energy, such as solar panels and similar devices.
- (2) Individual sewage treatment facilities serving an individual dwelling or nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.

5. *Performance standards.* All uses in the "R-2" Residence District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.

6. *Height limitations for structures.* The maximum height of structures in the "R-2" Residence District shall be as set out below:

- (1) No building elevation of any dwelling structure or building accessory to a dwelling structure shall exceed three (3) stories or forty-five (45) feet in height, whichever is less.
- (2) All other structures, other than a public utility tower or a local public utility facility authorized by a conditional use permit, shall not exceed a height of sixty (60) feet above the average finished ground elevation at the perimeter of such structure.

7. *Lot area, yard, and density requirements.* The minimum lot area and yard requirements for land uses and developments in the "R-2" Residence District as well as the maximum density of nursing home self care units shall be as set out below:

- (1) Minimum lot area requirements:
  - (a) The following permitted and conditional land uses shall be situated on tracts of land providing not less than the following areas:

Use	Minimum Area
Child care center	30,000 sq. ft.
Church	3 acres
Dwelling, single-family	15,000 sq. ft.
Group homes for the developmentally disabled	15,000 sq. ft.
Group living facilities for religious purposes	15,000 sq. ft.
Library	1 acre
Local public utility facilities	10,000 sq. ft.
Mechanical sewage treatment facility	15,000 sq. ft.
Schools:	
Nursing home development:	15,000 sq. ft.

Kindergarten (separate)	1 acre
Elementary (permitted use)	5 acres
Elementary (conditional use)	3 acres
Junior High	10 acres
Senior High	20 acres
Collegiate	20 acres

- (b) Any lot or tract of record on the effective date of this ordinance, which contains less than fifteen thousand (15,000) square feet, may be used as a site for one single-family dwelling together with accessory structures and uses.
  - (c) Foster homes to handicapped children, group homes for the elderly and not-for-profit private clubs and recreational land uses, including community centers, as approved by the Planning and Zoning Commission via a conditional use permit, may be established on tracts of land less than five (5) acres where the related parking needs, outdoor facilities, size of buildings and maximum membership of the developments and uses are deemed consistent with the intensity of land use in the neighborhood of the uses and developments. However, the minimum tract area for the conditional developments and uses shall not be less than fifteen thousand (15,000) square feet.
  - (d) Police and fire stations as approved by the Planning and Zoning Commission via a conditional use permit may be established on tracts of less than five (5) acres where the related parking needs, outdoor facilities and size of buildings are deemed consistent with the intensity of land use in the neighborhood of these uses.
  - (e) Specialized private schools shall be located on a tract of land containing one acre for each fifteen (15) pupils, but in no case less than five (5) acres.
  - (f) Mechanical sewage treatment facilities may be located on tracts of land less than fifteen thousand (15,000) square feet in area where the facility is located on platted common land within a subdivision. The minimum lot area, however, shall in no case be less than ten thousand (10,000) square feet.
  - (g) All other permitted or conditional land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area.
- (2) Creation of new lots. No new lots shall be created less than fifteen thousand (15,000) square feet in area except for police stations and local public utility facilities. Lots less than fifteen thousand (15,000) square feet created for the above uses, shall not be used for any other use; and, in the event the permitted use terminates, the lot shall be established as common ground for an adjacent development or combined with an adjacent parcel or parcels by means of a boundary adjustment. Prior to the approval of a subdivision record plat creating a lot of less than fifteen

thousand (15,000) square feet a deed or other legal instrument must be approved by the City Attorney and recorded with the St. Louis County Recorder of Deeds, which guarantees the required transfer of the property in the event the permitted use is terminated.

- (3) Minimum yard requirements; general:
  - (a) Front yard: No structure shall be allowed within twenty-five (25) feet of any roadway right-of-way line.
  - (b) Side yard: No structure shall be allowed within ten (10) feet of any side property line.
  - (c) Rear yard: No structure shall be allowed within fifteen (15) feet of any rear property line.
  - (d) No rear yard line will be permitted coincidental with a roadway right-of-way line.
- (4) Specific yard requirements and exceptions:
  - (a) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
  - (b) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.
  - (c) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission. Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
  - (d) In the event that greater than fifty (50) percent of the existing dwelling structures on the same side of a street and in both directions from a lot, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a variation in front yard setbacks of no more than ten (10) feet, the required front yard for that lot shall be the average setback of those structures. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than fifty (50) feet be required.
  - (e) If a lot of record existing on the effective date of this ordinance has a width of sixty (60) feet or less, the side yard on each side of any structure erected on such lot may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instances shall such yard be less than five (5) feet in width.
  - (f) Any nonresidential structure, other than a public utility tower authorized by a conditional use permit which exceeds thirty (30) feet in height shall be set back from all property lines at least one additional foot for every foot of height above thirty (30) feet.
- (5) Maximum density, maximum height and minimum yard requirements for nursing homes:
  - (a) Densities of self care units shall not exceed fifteen (15) units per acre.
  - (b) No building within a nursing home development shall exceed a height of three (3) stories or forty-five (45) feet above the average ground elevation at the perimeter of the building, whichever is less.
  - (c) No building within a nursing home development shall be allowed within a minimum of fifty (50) feet of any property line.

*Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.

9. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

Sec. 130. - "R-3" Residence District Regulations.

1. *Scope of provisions.* This section contains the district regulations of the "R-3" Residence District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.

2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:

- (1) Churches.
- (2) Day care homes licensed by the appropriate governmental authority.
- (3) Dwellings, single-family.
- (4) Home occupations.
- (5) Libraries, public or private not-for-profit.
- (6) Local public utility facilities sixty (60) feet or less in height or one hundred thousand (100,000) cubic feet in volume or less, provided that any installation, other than poles and equipment attached to the poles, shall be:
  - (a) adequately screened with landscaping, fencing or walls, or any combination thereof, or
  - (b) placed underground, or
  - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.

- (7) Parks, parkways, and playgrounds, public or private not-for-profit.
  - (8) Police stations and fire stations.
  - (9) Schools, public or private kindergarten, secondary, and collegiate.
  - (10) Schools, public or private elementary, on a tract of land of at least five (5) acres.
3. *Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance.
- (1) Child care centers, nursery schools, and day nurseries.
  - (2) Private, not-for-profit clubs, and private, not-for-profit recreational land uses and community centers.
  - (3) Foster homes for handicapped children.
  - (4) Golf courses or practice driving tees, which are non-illuminated. Miniature golf courses are excluded.
  - (5) Group homes for the developmentally disabled to be occupied by no more than five (5) individuals (excluding supervisory personnel) not related by blood or marriage to the operator or operators of the facility.

- (7) Group living facilities providing a permanent residence for not more than five (5) individuals, all over eighteen (18) years of age and who are ordained or hold a designated religious position with the same religious institution.
  - (8) Hospitals and hospices.
  - (9) Local public utility facilities over forty-five (45) feet in height.
  - (10) Nursing homes.
  - (11) Public utility facilities.
  - (12) Retreats owned and operated by religious, educational, or other not-for-profit establishments.
  - (13) Schools, public or private elementary, on a tract of land of at least three (3) acres but less than five (5) acres.
  - (14) Sewage treatment facilities, other than individual sewage treatment facilities permitted as an accessory use.
  - (15) Specialized private schools.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Detached above-ground accessory structures shall not cover more than seven (7) percent of the lot area. Accessory uses include the following:
- (1) Devices for the generation of energy, such as solar panels and similar devices.
  - (2) Individual sewage treatment facilities serving an individual dwelling or nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.
5. *Performance standards.* All uses in the "R-3" Residence District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Height limitations for structures.* The maximum height of structures in the "R-3" Residence District shall be as set out below:
- (1) No building elevation of any dwelling structure or building accessory to a dwelling structure shall exceed three (3) stories or forty-five (45) feet in height, whichever is less.
  - (2) All other structures, other than a public utility tower or a local public utility facility authorized by a conditional use permit, shall not exceed a height of sixty (60) feet above the average finished ground elevation at the perimeter of such structure.
7. *Lot area, yard, and density requirements.* The minimum lot area and yard requirements for land uses and developments in the "R-3" Residence District as well as the maximum density of nursing home self care units shall be as set out below:
- (1) Minimum lot area requirements:
    - (a) The following permitted and conditional land uses shall be situated on tracts of land providing not less than the following areas:

Child care center	30,000 sq. ft.
Church	3 acres
Dwelling, single-family	10,000 sq. ft.
Group homes for the developmentally disabled	10,000 sq. ft.
Group living facilities for religious purposes	10,000 sq. ft.
Library	1 acre
Local public utility facilities	10,000 sq. ft.
Mechanical sewage treatment facility	10,000 sq. ft.
Schools:	15,000 sq. ft.
Nursery or day nursery	
Kindergarten (separate)	1 acre
Elementary (permitted use)	5 acres
Elementary (conditional use)	3 acres
Junior High	10 acres
Senior High	20 acres
Collegiate	20 acres

- (b) Any lot or tract of record on the effective date of this ordinance, which contains less than ten thousand (10,000) square feet, may be used as a site for one single-family dwelling together with accessory structures and uses.
- (c) Foster homes for handicapped children, group homes for the elderly and not-for-profit private clubs and recreational land uses, including community centers, as approved by the Planning and Zoning Commission via a conditional use permit, may be established on tracts of land less than five (5) acres where the related parking needs, outdoor facilities, size of buildings and maximum membership of the developments and ones are deemed consistent with the intensity of land use in the neighborhood of the uses and developments. However, the minimum tract area for the conditional developments and uses shall not be less than ten thousand (10,000) square feet.

Specialized private schools shall be located on a tract of land containing one acre for each fifteen (15) pupils, but in no case less than five (5) acres.

- (e) All other permitted or conditional land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area.

(2) Minimum yard requirements; general:

- (a) Front yard: No structure shall be allowed within twenty (20) feet of any roadway right-of-way line.
- (b) Side yard: No structure shall be allowed within eight (8) feet of any side property line.
- (c) Rear yard: No structure shall be allowed within fifteen (15) feet of any rear property line.
- (d) No rear yard line will be permitted coincidental with a roadway right-of-way line.

(3) Specific yard regulations and exceptions:

- (a) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
- (b) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.
- (c) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission. Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
- (d) In the event that greater than fifty (50) percent of the existing dwelling structures on the same side of a street and in both directions from a lot, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a variation in front yard setbacks of no more than ten (10) feet, the required front yard for that lot shall be the average setback of those structures. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than fifty (50) feet be required.
- (e) If a lot of record existing on the effective date of this ordinance has a width of sixty (60) feet or less, the side yard on each side of any structure erected on such lot may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instances shall such yard be less than five (5) feet in width.
- (f) Any nonresidential structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one additional foot for every foot of height above thirty (30) feet.

(4) Maximum density, maximum height and minimum yard requirements for nursing homes:

- (a) Densities of self care units shall not exceed fifteen (15) units per acre.
- (b) No building within a nursing home development shall exceed a height of three (3) stories or forty-five (45) feet above the average ground elevation at the perimeter of the building, whichever is less.
- (c) No building within a nursing home development shall be allowed within a minimum of fifty (50) feet of any property line.

*Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.

9. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

Sec. 140. - "R-6A" Residence District Regulations.

1. *Scope of provisions.* This section contains the district regulations of the "R-6A" Residence District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:

- (1) Churches.
- (2) Day care homes licensed by the appropriate governmental authority.
- (3) Dwellings, single-family.
- (4) Dwellings, two-family.
- (5) Dwellings, multiple-family and other group-house arrangements of attached or detached buildings.
- (6) Home occupations.
- (7) Libraries, public or private not-for-profit.
- (8) Local public utility facilities forty-five (45) feet or less in height or one hundred thousand (100,000) cubic feet in volume or less, provided that any installation, other than poles and equipment attached to the poles, shall be:
  - (a) adequately screened with landscaping, fencing or walls, or any combination thereof, or
  - (b) placed underground, or
  - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.

- (9) Parks, parkways, and playgrounds, public or private not-for-profit.
  - (10) Police stations and fire stations.
  - (11) Schools, public or private kindergarten, secondary and collegiate.
  - (12) Schools, public or private elementary, on a tract of land of at least five (5) acres.
3. *Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:
    - (1) Child care centers, nursery schools, and day nurseries.
    - (2) Private, not-for-profit clubs, private, not-for-profit recreational land uses, and community centers.
    - (3) Foster homes for handicapped children.
    - (4) Group homes for the elderly.
    - (5)

Group living facilities providing a permanent residence for not more than five (5) individuals, all over eighteen (18) years of age and who are ordained or hold a designated religious position with the same religious institution.

- (6) Hospitals and hospices.
  - (7) Local public utility facilities over forty-five (45) feet in height or over one hundred thousand (100,000) cubic feet in volume.
  - (8) Nursing homes.
  - (9) Parking lot, when adjacent to land in a "C" Commercial, and when parking is used with a commercial or industrial development.
  - (10) Public utility facilities.
  - (11) Retreats owned and operated by religious, educational, or other not-for-profit establishments.
  - (12) Schools, public or private elementary, on a tract of land of at least three (3) acres but less than five (5) acres.
  - (13) Sewage treatment facilities, other than individual sewage treatment facilities permitted as an accessory use.
  - (14) Specialized private schools.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Detached above-ground accessory structures shall not cover more than a total of seven (7) percent of the lot area. Accessory uses include the following:
- (1) Devices for the generation of energy, such as solar panels and similar devices.
  - (2) Individual sewage treatment facilities serving an individual dwelling or nonresidential use, as approved by the appropriate regulatory agency. The sewage treatment facilities shall not exceed five thousand (5,000) gallons per day flow.
5. *Performance standards.* All uses in the "R-6A" Residence District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Height limitations for structures.* The maximum height of structures in the "R-6A" Residence District shall be as set out below:
- (1) No building elevation of any dwelling structure or building accessory to a dwelling structure shall exceed four (4) stories in height, including any basement dwelling space.
  - (2) All other structures, other than a public utility tower or a local public utility facility authorized by a conditional use permit, shall not exceed a height of forty-five (45) feet above the average finished ground elevation at the perimeter of such structure.
7. *Lot area, yard, and density requirements.* The minimum lot area and yard requirements for land uses and developments in the "R-6A" Residence District as well as the maximum density of nursing home self care units shall be as set out below:
- (1) Minimum lot area requirements:

The following permitted and conditional land uses shall be situated on tracts of land providing not less than those set out below:

Use	Minimum Area
Child care center	30,000 sq. ft.
Church	3 acres
Dwelling, single-family	4,500 sq. ft.
Dwelling, two-family	4,500 sq. ft.
Dwelling, three-family	4,000 sq. ft.
Dwelling, multiple-family	4,000 sq. ft.
Fire station	½ acre
Group living facilities for religious purposes	4,500 sq. ft.
Library	½ acre
Local public utility facilities	10,000 sq. ft.
Mechanical sewage treatment facility	10,000 sq. ft.
Parking lot	10,000 sq. ft.
Police station	10,000 sq. ft.
Schools:	
Nursery or day nursery	15,000 sq. ft.
Kindergarten (separate)	1 acre
Elementary (permitted use)	5 acres
Elementary (conditional use)	3 acres
Junior High	10 acres
Senior High	20 acres
Collegiate	20 acres

- (b) Any lot or tract of record on the effective date of this Zoning Ordinance which contains less than four thousand five hundred (4,500) square feet may be used as a site for one single-family dwelling together with accessory structures and uses.
- (c) Foster homes for handicapped children, group homes for the elderly and not-for-profit private clubs and recreational land uses, including community centers, as approved by the Planning and Zoning Commission via a conditional use permit, may be established on tracts of land less than five (5) acres where the related parking needs, outdoor facilities, size of buildings and maximum membership of the developments and uses are deemed consistent with the intensity of land use in the neighborhood of the uses and developments. However, the minimum tract area for the conditional developments and uses shall not be less than ten thousand (10,000) square feet.
- (d) Specialized private schools shall be located on a tract of land containing one (1) acre for each fifteen (15) pupils, but in no case less than five (5) acres.
- (e) All other permitted or conditional land uses in this district shall be situated or conducted on tracts of land at least five (5) acres in area.

(2) Minimum yard requirements:

- (a) Front yard: No structure shall be allowed within twenty (20) feet of any roadway right-of-way line.
- (b) Side yard: No single-family dwelling or structure accessory to a single-family dwelling except as noted below shall be allowed within five (5) feet of any side property line. Detached garages accessory to single-family dwellings shall be a minimum of three (3) feet from any side property line. No other structure shall be allowed within ten (10) feet of any side property line.
- (c) Rear yard: No structure, except detached garages accessory to single-family dwellings, shall be allowed within fifteen (15) feet from any rear property line. Detached garages accessory to single-family dwellings shall be a minimum of three (3) feet from any rear property line.

- (3) Distances between buildings. No wall of any separate (detached) structure, other than a single-family dwelling or structures accessory to a single-family dwelling, shall be located closer to any wall of another structure than as set out in the following table:

Walls	Front	Side	Rear	Walls of Detached Accessory Buildings
Front	50 ft. plus additional 10 ft. for each story over 2 stories	30 ft. except 20 ft. if side wall has no windows	100 ft.	30 ft.
Side	30 ft. except 20	20 ft.	30 ft.	10 ft.

	ft. if side wall has no windows			
Rear	100 ft.	30 ft.	50 ft.	20 ft.

Any dimension given above shall include the side yard required for a single-family dwelling, when any described wall faces the side lot of any separately owned property, whether or not any structure is located on said property.

(4) Specific yard requirements and exceptions:

- (a) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street elevation is allowed within the sight distance triangle.
- (b) Boundary walls or fences, six (6) feet or less in height, are allowed within the minimum yard requirements.
- (c) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission. Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
- (d) In the event that greater than fifty (50) percent of the existing dwelling structures on the same side of a street and in both directions from a lot, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a front yard setback variation of no more than ten (10) feet, the required front yard for that lot shall be the average setback of those structures. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than fifty (50) feet be required.
- (e) If a lot of record existing on the effective date of this ordinance has a width of sixty (60) feet or less, the side yard on each side of any structure erected on such lot may be reduced to a width of not less than ten (10) percent of the width of the lot, but in no instances shall such yard be less than five (5) feet in width.
- (f) Any nonresidential structure, other than a public utility tower authorized by a conditional use permit, which exceeds thirty (30) feet in height shall be set back from all property lines at least one additional foot for every foot of height above thirty (30) feet.
- (g) Parking lots for five (5) or more vehicles, loading spaces, or internal drives serving said parking lots or loading spaces, except ingress and egress drives, shall be set back a minimum of twenty (20) feet from any roadway right-of-way line and ten (10) feet from any adjoining property in a "PS," "NU," or "R" District. No setback is required from adjoining properties in a "C" District unless required by the conditions of a conditional use permit. Parking shall be screened from any adjoining property in a "PS," "NU," or "R" District using fences, berms, or

- (5) Maximum density, maximum height and minimum yard requirements for nursing homes.
  - (a) Densities of self care units shall not exceed twenty-five (25) units per acre.
  - (b) No building within a nursing home development shall exceed a height of four (4) stories or sixty (60) feet above the average ground elevation at the perimeter of the building, whichever is less.
  - (c) No building within a nursing home development shall be allowed within a minimum of thirty (30) feet of any property line.
- 8. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.
- 9. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

Sec. 150. - "C-1" Neighborhood Business District Regulations.

- 1. *Scope of provisions.* This section contains the district regulations of the "C-1" Neighborhood Business District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference. The "C-1" Neighborhood Business District encompasses areas located within or near residential communities wherein may be located certain limited sales and service facilities that constitute a convenience to residents in the immediate neighborhood.
- 2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
  - (1) Barbershops and beauty parlors.
  - (2) Child care centers, nursery schools and day nurseries.
  - (3) Dry cleaning drop-off and pick-up stations, not including drive-through facilities.
  - (4) Film drop-off and pick-up stations, not including drive-through facilities.
  - (5) Local public utility facilities, provided that any installation, other than poles and equipment attached to the poles, shall be:
    - (a) adequately screened with landscaping, fencing or walls, or any combination thereof, or
    - (b) placed underground, or
    - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.

  - (6) Offices and office buildings for accountants, bookkeepers, architects, engineers, planners, financial consultants, income tax preparers, insurance salespersons, lawyers, real estate salespersons, real estate brokers, real estate appraisers or other licensed professional services.
  - (7) Police, fire, and postal stations.
  - (8) Service facilities, studios, or work areas for artists, candy makers, dressmakers, tailors, music teachers, dance teachers, typists and stenographers. Goods and services associated with these uses may be sold or provided directly to the public on the premises.
  - (9)

Stores and shops in which food stuffs, beverages, pharmaceutical, household supplies, and personal use items are sold directly to the public for consumption elsewhere than on the premises. Drive-through facilities or restaurants are not permitted.

3. *Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits."
  - (1) All permitted land uses and developments set forth in subsection 2 which exceed one (1) story or twenty (20) feet in height, whichever is less, including roof top mechanical equipment attached to a structure.
  - (2) Financial institutions, including drive through facilities.
  - (3) Medical and dental offices.
  - (4) Public utility facilities.
  - (5) Restaurants and shops in which food stuffs and beverages are sold directly to the public for consumption on the premises.
  - (6) Service facilities, studios, or work areas for antique salespersons, craftpersons, including cabinet makers, film processors, fishing tackle and bait shops, and souvenir sales. Goods and services associated with the above may be sold or provided directly to the public on the premises.
  - (7) Sewage treatment facilities, not including individual sewage treatment facilities permitted as an accessory use.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:
  - (1) Associated work and storage areas required by a business, firm, or service to carry on business operations.
  - (2) Devices for the generation of energy, such as solar panels and similar devices.
  - (3) Individual sewage treatment facilities serving an individual building or use, as approved by the appropriate regulatory agency. The sewage treatment facility shall not exceed five thousand (5,000) gallons per day flow.
5. *Performance standards.* All uses in the "C-1" Neighborhood Business District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Height limitations for structures.* The maximum height of structures in this district shall be as follows:
  - (1) The total height of any structure, including roof top mechanical equipment attached to such structure, shall not exceed one story or twenty (20) feet in height, whichever is less, above the average finished ground elevation at the perimeter of such structure unless authorized by conditional use permit.
  - (2) The total height of any structure authorized by conditional use permit, including roof top mechanical equipment attached to such structure, shall be authorized by specific conditions of the permit, but shall not exceed two (2) stories or thirty (30) feet in height, whichever is less.

above the average finished ground elevation at the perimeter of such structure.

7. *Minimum lot area requirements.* Every lot or tract of land shall have an area comprising not less than six thousand (6,000) square feet. Sewage treatment facilities, not including individual sewage treatment facilities permitted as an accessory use, shall be situated on tracts of land at least ten thousand (10,000) square feet in area.
8. *Development limitations.*
  - (1) Not more than thirty (30) percent of the total area of any lot or tract of land in this district shall be covered by structures.
  - (2) The total gross floor area devoted to any single use or contained within any building shall not exceed ten thousand (10,000) square feet.
  - (3) Only one free-standing building shall be permitted on each lot or tract of land. This limitation shall not include buildings used for accessory uses.
9. *Minimum yard requirements.*
  - (1) Front yard; general: No structure is allowed within twenty (20) feet of any roadway right-of-way line.
  - (2) Front yard; specific regulations and exceptions:
    - (a) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
    - (b) When the minimum front yard setback of one or more "R" Residence District zoned properties adjoining either side of a lot in this district is greater than twenty (20) feet, the required minimum front yard setback shall be the same as the most restrictive adjoining "R" Residence District.
    - (c) Boundary walls or fences, six (6) feet in height or less, are allowed within the minimum front yard setback.
    - (d) Light standards for parking lot lighting are allowed no closer than fifteen (15) feet from any roadway right-of-way line.
    - (e) Light standards for street lighting or at points of ingress and egress are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission.
  - (3) Side and rear yards; general: No structure is allowed within fifteen (15) feet of a property line adjoining property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
  - (4) Side and rear yards; specific regulations and exceptions:
    - (a) Any structure exceeding thirty (30) feet in height which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District must be set back from such property line an additional one foot for every two (2) feet in height above thirty (30) feet.
    - (b) Boundary walls or fences, six (6) feet in height or less, are permitted within the minimum side and rear yard setbacks required from property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
    - (c) Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.

*Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.

11. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

Sec. 160 - "C-2" Shopping District Regulations.

1. *Scope of provisions.* This section contains the district regulations of the "C-2" Shopping District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference. The "C-2" Shopping District encompasses areas wherein may be located such stores and service facilities as will provide a wide range of goods and services usually used, consumed, or needed in the home or by individuals. It is the purpose of these regulations to facilitate the establishment of conditions suitable for the operation of small businesses catering to the general public.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
  - (1) Accounting offices.
  - (2) Apparel and accessories.
  - (3) Appliance stores and repair and service.
  - (4) Architect offices.
  - (5) Art galleries.
  - (6) Artist studios/work areas.
  - (7) Auditoriums and other facilities for public assembly.
  - (8) Bakeries.
  - (9) Book stores.
  - (10) Bookkeeper offices.
  - (11) Business and professional offices and office buildings.
  - (12) Camera and photo supplies stores.
  - (13) Candy maker studios/work areas.
  - (14) Churches.
  - (15) Dance teacher studios/work areas.
  - (16) Dental offices/clinics.
  - (17) Dressmaker facilities.
  - (18) Dry cleaners.
  - (19) Electronic appliance repair facilities.
  - (20) Electronics stores.
  - (21) Engineer offices.
  - (22) Eye glass shops.
  - (23) Film processing shops without drive-up services.
  - (24) Financial consultant offices.
  - (25) Financial institutions (excluding check cashing and short-term loan establishments) without drive-thru facilities.
  - (26) Fire stations.

- (27) Floral shops.
- (28) Gift and novelty stores.
- (29) Hardware stores.
- (30) Hearing aid shops.
- (31) Hobby supply stores.
- (32) Income tax preparer offices.
- (33) Insurance sales offices.
- (34) Interior decorating shops.
- (35) Jewelry stores.
- (36) Land title insurance companies.
- (37) Lawnmower sales.
- (38) Lawyers offices.
- (39) Libraries and reading rooms.
- (40) Meat stores.
- (41) Medical offices/clinics.
- (42) Mortgage companies.
- (43) Music teachers studios/work areas.
- (44) Musical instruments and record stores.
- (45) Newsstands.
- (46) Notions stores.
- (47) Paint stores.
- (48) Pet grooming, domestic small household.
- (49) Pharmacies.
- (50) Planners offices.
- (51) Police stations.
- (52) Postal stations.
- (53) Real estate appraisers, brokers and salespersons offices.
- (54) Schools for business, professional or technical training, but excluding outdoor areas for driving or heavy equipment training.
- (55) Service selling only those goods which may be sold by any other permitted retail stores in this district.
- (56) Shoe repair stores.
- (57) Sporting goods stores.
- (58) Stationery stores.
- (59) Stenographer/typist studios/work areas.
- (60) Supermarkets or grocery stores.
- (61) Tailor shops.
- (62) Taxidermist shops.
- (63) Tobacco stores.
- (64) Toy stores

- (65) Upholstery shops.
- (66) Utility (local public utility) facilities, provided that any installation, other than poles and equipment attached to the poles, shall be:
  - (a) Adequately screened with landscaping, fencing or walls, or any combination thereof; or
  - (b) Placed underground; or
  - (c) Enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.

All plans for screening these facilities shall be submitted to the Department of Public Works for review. No building permit or installation permit shall be issued until these plans have been approved by the Department of Public Works.

- (67) Variety stores.
- (68) Video rental stores.
- (69) Wallpaper stores.

3. *Land use and developments requiring conditional use permits.* The following land uses and developments may be permitted under Section 290, "Conditional Use Permits," of this Zoning Ordinance:

- (a) Adult day care centers.
- (b) All permitted land uses and developments set forth in subsection 2 which exceed two (2) stories or forty (40) feet in height, whichever is less, including roof top mechanical equipment attached to a structure.
- (c) Barbershops.
- (d) Beauty and nail salons.
- (e) Child day care centers, nursery schools and day nurseries.
- (f) Cocktail lounges.
- (g) Convenience stores.
- (h) Day spas.
- (i) Fast food restaurants.
- (j) Filling stations or service stations, together with such uses as may be incidental to the business of conducting a gasoline filling station when such uses have been included in any permit which may be granted. This may include towing service and storage of damaged automobiles on premises for a period of no more than fifteen (15) days for each automobile inspection by insurance company or other parties. Permits under this section shall be conditioned upon compliance with all existing fire regulation and ordinances of the appropriate fire protection district where the structure is located.
- (k) Financial institutions (excluding check cashing and short-term loan establishments) with drive-through facilities.
- (l) Hospitals.
- (m) Hotels, including customary services for guests.
- (n) Nursing homes.
- (o) Package liquor stores.
- (p) Private clubs, lodges and meeting rooms.

- (q) Produce stores.
  - (r) Public parking garages or a public parking area under special conditions where necessary for the public convenience or welfare.
  - (s) Public utility facilities not otherwise permitted under Subsection 2.
  - (t) Recreational facilities, including indoor theatres, but excluding drive-in theatres, illuminated outdoor golf practice driving ranges and outdoor swimming pools.
  - (u) Restaurants, excluding fast-food restaurants.
  - (v) Sewage treatment facilities, not including individual sewage treatment facilities permitted as an accessory use.
  - (w) Taverns.
  - (x) Vehicle service centers for automobiles.
  - (y) Veterinarian offices/clinics and animal hospitals, excluding open kennels and exercise yards.
4. *Accessory land uses and developments.* Unless restricted by applicable condition and subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a land use or development permitted hereunder which such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:
- (a) Associated work and storage areas required by any business firm, or service to carry on business operations.
  - (b) Devices for the generation of energy, such as solar panels and similar devices.
  - (c) Individual sewage treatment facilities serving an individual building or use, as approved by the appropriate regulatory agency. The sewage treatment facility shall not exceed five thousand (5,000) gallons per day flow.
  - (d) Outdoor sales.
5. *Performance standards.* All uses in the "C-2" Shopping District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Height limitations for structures.* The maximum height of structures in this district shall be as follows:
- (a) The total height of any structure, including roof top mechanical equipment attached to such structure, shall not exceed two (2) stories or forty (40) feet in height, whichever is less, above the average finished ground elevation at the perimeter of such structure unless authorized by conditional use permit.
  - (b) Total height of any structure authorized by conditional use permit shall be authorized by specific conditions of the permit.
7. *Minimum lot area requirements:*
- (a) Every lot or tract of land shall have an area comprising not less than twelve thousand (12,000) square feet.
  - (b) Churches shall be situated on tracts of land at least three (3) acres in area.
  - (c) Hospitals shall be situated on tracts of land at least five (5) acres in area.
  - (d)

Any lot or tract of record on the effective date of this ordinance, which contains less area than herein specified, may be used as a site for only one use listed in subsection 2, together with related parking area and accessory uses and developments.

8. *Development limitations.*

- (a) Not more than twenty-five (25) percent of the total area of any lot or tract of land in this district shall be covered by structures.
- (b) The total gross floor area devoted to any one (1) business, firm, or service shall not exceed thirty thousand (30,000) square feet.
- (c) The capacity of auditoriums, churches, clubs, lodges, meeting rooms, libraries, reading rooms, theaters or any other facility for public assembly shall not exceed five hundred (500) persons.

9. *Minimum yard requirements:*

- (a) Front yard; general: No structure is allowed within fifteen (15) feet of any roadway right-of-way line.
- (b) Front yard; specific regulations and exceptions:
  - (i) Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.
  - (ii) Boundary walls or fences, six (6) feet in height or less, are allowed within the minimum front yard setback.
  - (iii) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission.
- (c) Side and rear yards; general: No structure is allowed within fifteen (15) feet of a property line adjoining property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
- (d) Side and rear yards; specific regulations and exceptions:
  - (i) Any structure exceeding thirty (30) feet in height which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District, other than a public utility tower authorized by a conditional use permit, must be set back from such property line an additional one (1) foot for every two (2) feet in height above thirty (30) feet.
  - (ii) Boundary walls or fences, six (6) feet in height or less, are permitted within the minimum side and rear yard setbacks required from property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
  - (iii) Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.

10. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.

11. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

12. *Existing uses.* Any use that was established prior to the effective date of this ordinance shall be considered a conforming use and may continue such use subject to the regulations applicable to other permitted uses in this district.

Sec. 170. - "C-6" Office and Research Service District Regulations.

1. *Scope of provisions.* This section contains the district regulations of the "C-6" Office and Research Service District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference. The "C-6" Office and Research Service District encompasses areas strategically located and related to various supplementary facilities, clientele and communication systems as to provide suitable sites for certain types of office and research organizations.
2. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
  - (1) Bookstores.
  - (2) Broadcasting studios for radio and television.
  - (3) Business and professional services wholly accessory to office operations and activities.
  - (4) Colleges and universities.
  - (5) Employee dining facilities for the specific use of a designated office or research building or group of office or research buildings under the same ownership or management.
  - (6) Libraries.
  - (7) Local public utility facilities, provided that any installation, other than poles and equipment attached to the poles, shall be:
    - (a) adequately screened with landscaping, fencing or walls, or an combination thereof, or
    - (b) placed underground, or
    - (c) enclosed in a structure in such a manner so as to blend with and complement the character of the surrounding area.All plans for screening these facilities shall be submitted to the Director of Public Works for review. No building permit shall be issued until these plans have been approved by the Planning and Zoning Commission.
  - (8) Medical and dental offices.
  - (9) Nursery schools and day nurseries.
  - (10) Offices or office buildings. No more than ten (10) percent of the gross floor area of a building may be used for retail and personal services.
  - (11) Police, fire, and postal stations.
  - (12) Research facilities, professional and scientific laboratories, including photographic processing laboratories used in conjunction therewith. No retail or wholesale sales shall be made from these facilities or laboratories.
  - (13) Schools for business, professional, or technical training, but not including outdoor areas for driving or heavy equipment training.
3. *Conditional land use and development permits issued by the Commission.* The following land uses and developments may be permitted under conditions and requirements specified in Section 290, "Conditional Use Permits," of this Zoning Ordinance:
  - (1) All permitted land uses and developments set forth in subsection 2 of this section which exceed three (3) stories or forty-five (45) feet in height, whichever is less, including roof top mechanical equipment attached to a structure.
  - (2) Broadcasting towers for radio and television.

- (3) Child care centers.
  - (4) Hospitals.
  - (5) Public utility facilities.
  - (6) Sewage treatment facilities, not including individual sewage treatment facilities permitted as an accessory use.
4. *Accessory land uses and developments.* Subject to compliance with the procedures of this section, accessory buildings, structures and uses are permitted in conjunction with a permitted land use or development or (unless restricted by applicable condition) a conditional land use or development when such accessory building, structure or use is customarily found in conjunction with the primary use, is a reasonably necessary incident to the primary use, is clearly subordinate to the primary use, and serves only to further the successful utilization of the primary use. Accessory uses include the following:
- (1) Cafeterias for employees and guests only,
  - (2) Devices for the generation of energy, such as solar panels and similar devices.
  - (3) Individual sewage treatment facilities serving an individual building or use, as approved by the appropriate regulatory agency. The sewage treatment facility shall not exceed five thousand (5,000) gallons per day flow.
5. *Performance standards.* All uses in the "C-6" Office and Research Service District shall operate in conformity with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance.
6. *Height limitations for structures.* The maximum height of structures in this district shall be as follows:
- (1) The total height of any structure, including roof top mechanical equipment attached to such structure, shall not exceed three (3) stories or forty-five (45) feet in height, whichever is less, above the average finished ground elevation at the perimeter of such structure unless authorized by conditional use permit.
  - (2) Total height of any structure authorized by conditional use permit shall be authorized by specific conditions of the permit.
7. *Lot area requirements and development limitations:*
- (1) Minimum lot area requirements:
    - (a) Colleges and universities shall be situated on tracts of land at least five (5) acres in area.
    - (b) Hospitals shall be situated on tracts of land at least five (5) acres in area.
    - (c) A tract of land of at least twelve thousand (12,000) square feet in area shall be provided for each other separate land use or building permitted in this district other than permitted signs.
    - (d) Any lot or tract of record on the effective date of this ordinance, which contains less area than herein specified, may be used as a site for only one use listed in subsection 2 together with related parking areas and accessory uses and developments.
8. *Minimum yard requirements:*
- (1) Front yard; general: No structure is allowed within fifteen (15) feet of any roadway right-of-way line.
  - (2) Front yard; specific regulations and exceptions:
    - (a)

Notwithstanding any other provision of this ordinance, on corner lots, no structure or plant material exceeding three (3) feet in height above the elevation of the street pavement is allowed within the sight distance triangle.

- (b) Boundary walls or fences, six (6) feet in height or less, are allowed within the minimum front yard setback.
  - (c) Light standards for street lighting or at points of ingress and egress, but not including parking lot lighting, are allowed within the minimum front yard setback when approved by the Planning and Zoning Commission.
- (3) Side and rear yards; general: No structure is allowed within fifteen (15) feet of a property line adjoining property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
- (4) Side and rear yards; specific regulations and exceptions:
- (a) Any structure exceeding thirty (30) feet in height which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District, other than a public utility tower authorized by a conditional use permit, must be set back from such property line an additional one foot for every two (2) feet in height above thirty (30) feet.
  - (b) Boundary walls or fences, six (6) feet in height or less, are permitted within the minimum side and rear yard setbacks required from property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District.
  - (c) Light standards for parking lot lighting are allowed no closer than ten (10) feet of any side or rear yard line which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic or any "R" Residence District.
9. *Off-street parking and loading requirements.* Off-street parking and loading requirements and setbacks for parking areas, loading spaces and internal drives are set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance.
10. *Sign regulations.* Sign regulations are set forth in Chapter 17.5, "Signs," of this Code.

Sec. 180. - "C-8" Planned Commercial District.

1. *Scope of provisions.* This section contains the district regulations of the "C-8" Planned Commercial District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference. The Planned Commercial District may be described in the manner outlined below.
2. *Purpose.* The "C-8" Planned Commercial District encompasses areas where developments and uses permitted in any of the other "C" Commercial Districts may be located. It is the purpose of these regulations to facilitate the establishment of combinations of developments and uses for which no provision is made in any other single "C" Commercial District, or the establishment of developments and uses in locations appropriate under approved site plans and conditions. Such approved plans and conditions shall be consistent with good planning practice and compatible with permitted developments and uses in adjoining districts, so as to protect the general welfare.
3. *Establishment.*
  - (1) A Planned Commercial District may be established on a tract of land in single ownership or management control provided that (a) the preliminary development plan and the application for change of zoning are approved by the City Council; (b) a site development plan is approved by the Planning and Zoning Commission and recorded in compliance with requirements of this section; and (c) that the schedule of construction is complied with in accordance with the requirements of

- (2) A Planned Commercial District may be established by ordinance of the City Council in the same manner that other mapped districts are established where the City Council determines that any particular tracts or areas should be developed for commercial use, but because of possible conflicts with adjoining uses, more development control is necessary to protect the general welfare than is possible under the regulations of the other "C" Commercial Districts.
  - (3) A Planned Commercial District shall not be established on any tract of land less than one (1) acre that has a common property line with any "R" Residence District and does not have a common property line with any "C" Commercial District. However, this requirement shall not apply to properties of less than one (1) acre which are in a "C" Commercial District.
4. *Permitted land uses and developments.* The following land uses and developments are permitted in this district:
  - (1) Subject only to approval of a site development plan by the Planning and Zoning Commission:
    - (a) Police, fire, and postal stations.
    - (b) Local public utility facilities.
    - (c) Accessory uses incident to the above uses.
  - (2) Permitted land uses and developments shall be established in the conditions of the ordinance governing the particular Planned Commercial District; specific uses may include those uses designated as permitted, accessory, or conditional uses in any of the "C" Commercial Districts.
5. *Performance standards.* All uses established in a Planned Commercial District shall operate in accord with performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance. These performance standards are minimum requirements and may be made more restrictive in the conditions of the ordinance governing the particular Planned Commercial District.
6. *Height limitations for structures.* The total height of any structure shall be limited by the conditions of the ordinance governing the particular Planned Commercial District.
7. *Lot area, development limitation, and yard requirements.* The lot area, development limitation, and yard requirements for land uses in this district shall be as follows:
  - (1) Minimum lot area: No minimum lot area shall be required for this district, but lot dimensions shall be sufficient to meet other requirements set forth in this section or in the conditions of the ordinance governing the particular Planned Commercial District.
  - (2) Minimum yard requirements; general: Setbacks for parking areas, internal drives, loading spaces, and structures shall be established in the conditions of the ordinance governing the particular Planned Commercial District.
  - (3) Particular yard requirements:
    - (a) No parking area, internal drive, loading space, or structure shall be permitted within ten (10) feet of a property line adjoining property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District. In addition to the minimum ten (10) feet, any structure exceeding thirty (30) feet in height which adjoins property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District shall be set back an additional one foot for every two (2) feet in height above thirty (30) feet. Greater setbacks may be required by condition if necessary to ensure compatibility with adjoining developments or uses.
    - (b)

Boundary walls or fences, six (6) feet in height or less, are permitted within the minimum yard requirements, unless otherwise restricted in the conditions of the ordinance governing the particular Planned Commercial District.

8. *Off-street parking and loading requirements.* The minimum off-street parking and loading requirements for any use or building in a Planned Commercial District shall not be reduced below that required for the same use in any other "C" Commercial District as set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance. These requirements may exceed minimum standards as required by condition where determined necessary. However, where the Planned Commercial District includes two (2) or more uses, the Planning and Zoning Commission may recommend, and the City Council may approve, a total reduction of not more than twenty (20) percent, or thirty (30) percent for developments greater than five hundred thousand (500,000) square feet in gross floor area under single ownership or management control, of the required off-street parking and loading spaces, where it has been demonstrated by study of the combined uses and customary operation of the uses that adequate parking would be provided. The Planning and Zoning Commission may recommend a further reduction beyond thirty (30) percent for developments greater than seven hundred fifty thousand (750,000) square feet of gross floor area under single ownership or management control based on a similar approved study as above.
9. *Sign regulations.* Specific sign regulations shall be established in the conditions of the ordinance governing the Planned Commercial District in accord with the provisions of Chapter 17.5, "Signs," of this Code.
10. *Procedure for establishment of C-8 or approval of site plan in existing C-8.* In order to establish a Planned Commercial District through a change of zoning, or to obtain approval of a site development plan in order to utilize land in an established Planned Commercial District, the procedure shall be as follows:
  - (1) Application. The owner or owners of record, or owners under contract of a lot or tract of land, or their authorized representatives, shall petition the City Council on forms prescribed for this purpose by the Director of Public Works. These forms are to be submitted to the Planning and Zoning Commission and accompanied by the following:
    - (a) Filing fee per requirements of Section 350, "Fees," of this Zoning Ordinance;
    - (b) Legal description of the property;
    - (c) Outboundary plat of the property;
    - (d) Preliminary development plan, depicting, but not limited to, the following:
      - (i) Proposed uses. In single-lot developments approximate location of buildings and other structures as well as parking areas shall be indicated. In multiple-lot developments, conceptual location and configuration of buildings, approximate locations of common ground areas, major utility easements, and stormwater retention areas shall be indicated.
      - (ii) Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum. Floodplain areas shall be delineated.
      - (iii) Approximate location of all isolated trees having a trunk diameter of six (6) inches or more, all tree masses, and proposed landscaping.
      - (iv) Two (2) section profiles through the site showing preliminary building form, existing natural grade and proposed final grade.
      - (v) Proposed ingress and egress to the site, including adjacent streets, and approximate

- (vi) Preliminary plan for sanitation and drainage facilities.
- (2) Public hearing. A public hearing on the petition shall be held by the Planning and Zoning Commission in accordance with the provisions of Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance; provided, however, a public hearing shall be set within forty-five (45) days of acceptance of the petition, fee, and related plan and documents by the Director of Public Works.
- (3) Planning and Zoning Commission recommendation. No action shall be taken by the City Council with respect to the petition until it has received the recommendation of the Planning and Zoning Commission. The recommendation shall address general planning considerations, including consistency with good planning practice, and compatibility with adjoining permitted developments and uses. A recommendation of approval shall include recommended conditions to be included in the ordinance authorizing the establishment of the Planned Commercial District or approval of the site development plan in a Planned Commercial District. Such conditions shall include, but not be limited to, the following:
  - (a) Permitted uses, including maximum floor area;
  - (b) Performance standards;
  - (c) Height limitations;
  - (d) Minimum yard requirements;
  - (e) Off-street parking and loading requirements;
  - (f) Sign regulations as set forth in Chapter 17.5, "Signs," of this Code;
  - (g) Minimum requirements for site development plans; and
  - (h) Time limitations for commencement of construction.
- (4) Site development plans:
  - (a) After passage by the City Council of an ordinance authorizing the establishment of a Planned Commercial District and requiring submission of a site development plan or site development concept plan, such plans shall be submitted in accord with the following provisions. No building permits or authorization for improvement or development for any use requested under provisions of this ordinance shall be issued prior to approval of such plans.
  - (b) Plans shall be submitted to the Planning and Zoning Commission for review and approval. These plans shall contain the minimum requirements established in the conditions of the specific ordinance governing the Planned Commercial District, and further, shall comply with provisions of the City's Subdivision Ordinance and other applicable City ordinances.
  - (c) Within sixty (60) days of approval, the site development plan or site development concept plan shall be recorded with the St. Louis County Recorder of Deeds, and thereby authorize development as depicted thereon.
  - (d) In the case of single-lot/multiple-building developments or multiple-lot developments where a site development concept plan is required, site development section plans shall be submitted to the Director of Public Works for review and approval per individual building, lot, phase or plat representing a portion of the site development concept plan. The approved section plans shall be retained on file by the Director of Public Works.

*Procedure for amendment of conditions or plans.* In order to amend the provisions of an existing "C-8" District ordinance or to amend the recorded site development plan, site development concept plan or site development section plan approved for the Planned Commercial District, the procedure shall be as follows:

- (1) To amend the "C-8" District ordinance:
  - (a) The property owner or authorized representative shall submit a written request to amend ordinance conditions to the Director of Public Works for review. The Director of Public Works shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
  - (b) If the Director of Public Works determines that the requested amendment is consistent in purpose and content with the original proposal as advertised, the Director of Public Works shall so report to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the request and the report of the Director of Public Works and then forward a recommendation to the City Council. A recommendation of approval shall include conditions to be included in the amended ordinance.
  - (c) If the Director of Public Works determines that the requested amendment is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed ordinance amendment and forward a recommendation to the City Council. The Planning and Zoning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with the proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
- (2) To amend the recorded site development plan or site development concept plan approved for the Planned Commercial District:
  - (a) The property owner or authorized representative shall submit an amended site development (concept) plan to the Director of Public Works for review. The Director of Public Works shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing, and the preliminary development plan approved by the City Council.
  - (b) If the Director of Public Works determines that the proposed amendment to the site development plan is major in nature and is not in conflict with the original proposal as advertised and the approved preliminary development plan, and meets all conditions of the Planned Commercial District ordinance, said plan shall be reviewed and approved by the Planning and Zoning Commission. Said amended plan shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.
  - (c) If the Director of Public Works determines that the proposed amendment to the site development plan is minor in nature and is not in conflict with the original proposal as advertised and the preliminary development plan, and meets all conditions of the Planned Commercial District ordinance, the Director of Public Works may approve said amended plan. Said plan shall be retained on file by the Director of Public Works.

However, when conditions of a particular Planned Commercial District ordinance are amended which necessitate an amended site development plan, the Planning and Zoning Commission shall review and approve said amended plans and they shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.

- (d) If the Director of Public Works determines that the proposed amendment to the site development plan is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, or with the preliminary development plan approved by the City Council, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed site plan amendment and make a final determination. The Planning and Zoning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
  - (e) All amendments to site development concept plans shall be reviewed and approved by the Planning and Zoning Commission and shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.
  - (f) The Planning and Zoning Commission may approve partial amended site development plans, site development concept plans, and site development section plans for developments approved prior to enactment of this ordinance when the conditions of the ordinance governing such particular "C-8" Planned Commercial District do not permit review of development plans in accord with the provisions of this section. Such partial amended plans shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.
- (3) To amend a site development section plan approved for a Planned Commercial District: If the Director of Public Works determines that the proposed amendment to the site development section plan is not in conflict with the approved site development concept plan and meets all conditions of the Planned Commercial District ordinance, the Director of Public Works may approve said amended plan. Said plan shall be retained on file by the Director of Public Works.
  - (4) Appeal to Planning and Zoning Commission of a decision by the Director of Public Works in reviewing development plans. The petitioner/developer may appeal a decision by the Director of Public Works, in cases where the Director of Public Works is authorized to review development plans, to the Planning and Zoning Commission. The petitioner shall have a fifteen-day period in which to file a written appeal and plan with the Planning and Zoning Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Director of Public Works. The Planning and Zoning Commission will make the final determination of the matter. No exceptions will be granted that are in violation of the particular ordinance governing the development plan.
12. *Guarantee of improvements.* Unless otherwise provided for in the conditions of the ordinance governing a particular Planned Commercial District, no building permits, or permits authorizing the occupancy or use of a building, facility, commercial establishment or service concern may be issued until required related off-site improvements are constructed or a performance bond, escrow, or other acceptable instrument is posted covering their estimated cost as determined by the Director of Public Works. This requirement shall not apply to foundation permits or permits necessary for the

installation of required related off-site improvements. Required related off-site improvements shall include, but not be limited to, streets, sidewalks, sanitary and storm sewers, street lights and street trees. If a Planned Commercial District is developed in sections, the requirement shall also apply to all major improvements necessary to the proper operation and function of the section in question, even though such improvements may be located outside of the section in question.

13. *Failure to commence construction.* Substantial construction shall commence within the time period specified in the conditions of the ordinance governing the Planned Commercial District, unless such time period is extended by the Planning and Zoning Commission. If substantial construction or development does not begin within the time period specified in the conditions of the ordinance governing the district, or extensions authorized therein, the Planning and Zoning Commission shall within forty-five (45) days initiate a resolution of intent for the purpose of a new public hearing to revert the property to its prior zoning classification in accord with proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance. No building or occupancy permit shall be issued for the development or use of the property until completion of action by the City Council on the proceedings to rezone the property in accord with the provisions of the above noted section.

Sec. 190. - "MXD" Mixed Use Development District.

1. *Scope of provisions.* This section contains the regulations for the Mixed Use Development District. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.
2. *Statement of intent.* The intent of this section is to establish a zoning classification which permits developments including a mixture of residential, commercial, industrial, cultural and institutional uses in a single structure or multiple structures. It is the purpose of these regulations to encourage a diversification of uses in unified projects located in proximity to major roadways and intersections and through the interrelationship of uses and structures to promote innovative and energy conscious design, efficient and effective circulation systems, a variety of housing types, and to encourage the conservation of land resources, minimization of auto travel, and the location of employment and retail centers in proximity to higher density housing.
3. *Permitted land uses and developments.* Permitted land uses and developments shall be established in the conditions of the ordinance governing the particular Mixed Use Development District; specific uses may include uses designated as permitted, accessory or conditional uses in any of the "R" Residence or "C" Commercial Districts. Each Mixed Use Development District shall include a minimum of twenty (20) percent of the total gross floor area in residential uses, twenty (20) percent of the total gross floor area in retail commercial uses, and twenty (20) percent of the total gross floor area in office or industrial uses. Gross floor area used for parking shall not be included in the above calculations. Gross floor area of hotels may be used for up to fifty (50) percent of the required floor area for residential uses. Gross floor area devoted to institutional, cultural, entertainment or recreational uses may be used, on a one-to-one basis, to reduce the required minimum floor area of any of the three (3) main use categories up to a maximum twenty-five (25) percent reduction. In addition to this approach, where residential development in a proposed Mixed Use Development District is greater than fifty-one (51) percent of the total gross floor area, the remainder of the development may consist of "C" Commercial uses without limitation as to percentages of gross floor area.

*Performance standards.* All uses established in a Mixed Use Development District shall operate in accord with performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance. These performance standards are minimum requirements and may be made more restrictive in the conditions of the ordinance governing the particular Mixed Use Development District.

5. *Height limitations for structures.* The total height of any structure shall be limited by the conditions in the ordinance governing the particular Mixed Use Development District.
6. *Lot area, residential density, and yard requirements.* The lot area, residential density, and yard requirements for land uses in this district shall be as follows:
  - (1) Minimum lot area: No minimum lot area is established for this district, but lot dimensions shall be sufficient to meet other requirements set forth in this section or in the conditions of the ordinance governing the particular Mixed Use Development District.
  - (2) Residential density: Residential densities shall be established in the conditions of the ordinance governing the particular Mixed Use Development District but in no event shall the density exceed sixty (60) units per acre of land in the total development excluding land which is utilized for road right-of-way purposes, and excluding right-of-way dedication for widening existing roadways, and including land remaining within the one-hundred-year floodplain elevation, as identified in Section 070, "Floodplain District Regulations," of this Zoning Ordinance. This density restriction, however, shall not apply to hotels.
  - (3) Minimum yard requirements; general: Setbacks for parking areas and structures shall be established in the conditions of the ordinance governing the particular Mixed Use Development District.
  - (4) Minimum yard requirements; specific regulations and exceptions:
    - (a) No parking areas, internal drives, loading spaces, and structures shall be permitted within ten (10) feet of a property line adjoining property in the "NU" Non-Urban, "PS" Park and Scenic, or any "R" Residence District. In addition to the minimum ten (10) feet, any structure exceeding thirty (30) feet in height which adjoins property in the "NU" Non-Urban, Park and Scenic, or any "R" Residence District shall be set back an additional one foot for every two (2) feet in height above thirty (30) feet. Greater setbacks may be required by condition if necessary to ensure compatibility with adjoining developments or uses.
    - (b) Boundary walls or fences, six (6) feet in height or less, are permitted within the minimum yard requirements, unless otherwise restricted in the conditions of the ordinance governing the particular Mixed Use Development District.
7. *Off-street parking and loading requirements.* The minimum off-street parking and loading requirements for any use or building in a Mixed Use District shall not be reduced below that required for the same use in any other "C" Commercial or "R" Residence District as set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance. These requirements may exceed minimum standards as required by conditions where determined necessary. However, the Planning and Zoning Commission may recommend, and the City Council may approve, a total reduction of not more than twenty (20) percent, or thirty (30) percent for developments greater than five hundred thousand (500,000) square feet of gross floor area under single ownership or management control, of the required off-street parking and loading spaces, where it has been demonstrated by study of the combined uses and customary operation of the uses that adequate parking would be provided. The Planning and Zoning Commission may recommend a further parking reduction beyond thirty (30)

percent for developments greater than seven hundred fifty thousand (750,000) square feet of gross floor area under single ownership or management control based upon a similar approved study as above.

8. *Sign regulations.* Specific sign regulations shall be established in accord with the provisions of Chapter 17.5, "Signs," of this Code.
9. *Procedure to establish district.* In order to establish a Mixed Use Development District through a change of zoning, the procedure shall be as follows:
  - (1) Application: The owner or owner of record or owners under contract of a lot or tract of land, or their authorized representatives, shall petition the City Council on forms prescribed for this purpose by the Director of Public Works. These forms shall be submitted to the Director of Public Works and accompanied by the following:
    - (a) Filing fee per requirements of Section 350, "Fees," of this Zoning Ordinance.
    - (b) Legal description of the property.
    - (c) Outboundary plat of the property.
    - (d) Preliminary development plan, including but not limited to the following:
      - (i) Proposed uses, including the general location, type, and number of dwelling units; general location, type, and square footage of all other proposed uses; general location and size of parking areas; and approximate locations of common ground areas, major utility easements, and stormwater retention areas.
      - (ii) Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum. Floodplain areas are to be delineated.
      - (iii) Approximate location of all isolated trees having a trunk diameter of six (6) inches or more, all tree masses, and proposed landscaping.
      - (iv) Two (2) section profiles through the site showing preliminary building form, existing natural grade and proposed final grade.
      - (v) Maximum building heights and minimum setbacks for parking and structures.
      - (vi) Proposed ingress and egress to the site, including adjacent streets, and approximate alignments of internal roadway systems.
      - (vii) Preliminary plan for sanitation and drainage facilities.
    - (e) A written statement noting in what manner the proposed development is consistent with the City of Black Jack Master Plan policies and the intent of the Mixed Use Development District.
    - (f) A written statement reflecting the intensity of the proposed development compared to adjoining development (existing or approved).
  - (2) Public hearing. A public hearing on the petition shall be held by the Planning and Zoning Commission in accordance with the provisions of Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance; provided, however, a public hearing shall be set within forty-five (45) days of acceptance of the petition, fee, and related plan and documents by the Director of Public Works.
  - (3) Planning and Zoning Commission recommendation. No action shall be taken by the City Council with respect to the petition until it has received the recommendation of the Planning and Zoning Commission. Said recommendation shall address general planning considerations, including consistency with good planning practice, and compatibility with adjoining permitted

developments and uses. A recommendation of approval shall include recommended conditions to be included in the ordinance authorizing the establishment of the Mixed Use Development District. Such conditions shall include but not be limited to the following:

- (a) Permitted uses, including maximum floor area and residential density.
- (b) Performance standards.
- (c) Height limitations.
- (d) Minimum yard requirements.
- (e) Off-street parking and loading requirements.
- (f) Sign regulations as set forth in Chapter 17.5, "Signs," of this Code.
- (g) Minimum requirements for site development plans.
- (h) Phasing requirements for each use type included in the development.
- (i) Time limitations for commencement of construction.

(4) Site development plans:

- (a) After passage by the City Council of an ordinance authorizing the establishment of a Mixed Use Development District and requiring submission of a site development plan or site development concept plan, said plans shall be submitted in accord with the following provisions. No building permits or authorization for improvement or development for any use authorized under provisions of this ordinance shall be issued prior to approval of such plans.
- (b) Plans shall be submitted to the Planning and Zoning Commission for review and approval. Said plans shall contain the minimum requirements established in the conditions of the specific ordinance governing the Mixed Use Development District, and further, shall comply with the provisions of the City's Subdivision Ordinance and other applicable City ordinances.
- (c) Within sixty (60) days of approval, the site development plan or site development concept plan shall be recorded with the St. Louis County Recorder of Deeds, and thereby authorize development as depicted thereon.
- (d) In the case of single-lot/multiple-building developments or multiple-lot or multiple-section developments where a site development concept plan is required, site development section plans shall be submitted to the Director of Public Works for review and approval per individual building, lot, phase, or plat representing a portion of the site development concept plan. The approved section plans shall be retained on file by the Director of Public Works.

10. *Procedure to amend conditions or plans.* In order to amend the provisions of an existing "MXD" Mixed Use Development District ordinance or to amend the recorded site development plan, site development concept plan or section plan approved for the Mixed Use Development District, the procedure shall be as follows:

(1) To amend the "MXD" District ordinance:

- (a) The property owner or authorized representative shall submit a written request to amend ordinance conditions to the Director of Public Works for review. The Director of Public Works shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
- (b) If the Director of Public Works determines that the requested amendment is consistent in purpose and content with the original proposal as advertised, the Director of Public Works

Commission shall then review the request and the report of the Director of Public Works, then forward a recommendation to the City Council. A recommendation of approval shall include conditions to be included in the amended ordinance.

- (c) If the Director of Public Works determines that the requested amendment is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed ordinance amendment and forward a recommendation to the City Council. The Planning and Zoning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with the proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
- (2) To amend the recorded site development plan or site development concept plan approved for the Mixed Use Development District:
- (a) The property owner or authorized representative shall submit an amended site development (concept) plan to the Director of Public Works for review. The Director of Public Works shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing, and the preliminary development plan approved by the City Council.
  - (b) If the Director of Public Works determines that the proposed amendment to the site development plan is major in nature and is not in conflict with the original proposal as advertised and the approved preliminary development plan, and meets all conditions of the Mixed Use Development District ordinance, said plan shall be reviewed and approved by the Planning and Zoning Commission. Said amended plan shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.
  - (c) If the Director of Public Works determines that the proposed amendment to the site development plan is minor in nature and is not in conflict with the original proposal as advertised and the preliminary development plan, and meets all conditions of the Mixed Use District ordinance, the Director of Public Works may approve said amended plan. Said plan shall be retained on file by the Director of Public Works.

However, when conditions of a particular Mixed Use District ordinance are amended which necessitate an amended site development plan, the Planning and Zoning Commission shall review and approve said amended plans and they shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.
  - (d) If the Director of Public Works determines that the proposed amendment to the site development plan is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, or with the preliminary development plan approved by the City Council, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed site plan amendment and make a final determination. The Planning and Zoning Commission may, if deemed necessary, forward a resolution of intent to the City

Council for the purpose of a new public hearing on the matter, in accord with the proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.

- (e) All amendments to site development concept plans shall be reviewed and approved by the Planning and Zoning Commission and shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.
  - (3) To amend a site development section plan approved for a Mixed Use District. If the Director of Public Works determines that the proposed amendment to the site development section plan is not in conflict with the approved site development concept plan and meets all conditions of the Mixed Use District Ordinance, the Director of Public Works may approve said amended plan. Said plan shall be retained on file by the Director of Public Works.
  - (4) Appeal to Planning and Zoning Commission of a decision by the Director of Public Works in reviewing development plans. The developer may appeal to the Planning and Zoning Commission from a decision by the Director of Public Works in cases where the Director of Public Works is authorized to review development plans. The petitioner shall have a fifteen (15) day period in which to file a written appeal and plan with the Planning and Zoning Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Director of Public Works. The Planning and Zoning Commission shall make the final determination of the matter. No exceptions may be granted that are in violation of the particular ordinance governing the development plans.
11. *Guarantee of improvements.* Unless otherwise provided for in the conditions of the ordinance governing a particular Mixed Use District, no building permits or permits authorizing the occupancy or use of a building, facility, industrial or commercial establishment, service concern, or residential use may be issued until required related off-site improvements are constructed or a performance bond, escrow, or other acceptable instrument is posted covering their estimated cost as determined by the Director of Public Works. This requirement shall not apply to foundation permits or permits necessary for the installation of required related off-site improvements. Required related off-site improvements shall include, but not be limited to, streets, sidewalks, sanitary and storm sewers, street lights and street trees. If a Mixed Use District is developed in sections, the requirement shall also apply to all major improvements necessary to the proper operation and function of the section in question even though such improvements may be located outside of the section in question.
12. *Failure to commence construction.* Substantial construction shall commence within the time period specified in the conditions of the ordinance governing the Mixed Use Development District, unless such time period is extended by the Planning and Zoning Commission. If substantial construction or development does not begin within the time period specified in the conditions of the ordinance governing the district, or extensions authorized therein, the Planning and Zoning Commission shall within forty-five (45) days of the expiration date initiate a resolution of intent for the purpose of a new public hearing to revert the property to its prior zoning classification in accord with proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance. No building or occupancy permit shall be issued for the development or use of the property until completion of action by the City Council on the proceedings to rezone the property in accord with the provisions of the above noted section.
13. *Trust indentures and warranty deeds.* In developments where common areas, which may include open spaces, recreational areas, or other common grounds, are provided and the acreage of which is

simultaneously with the record plat. The indenture shall provide for the proper and continuous maintenance and supervision of said common areas by trustees to be selected and to act in accordance with the terms of such indenture. The common areas shall be deeded to the trustees under said indenture by general warranty deed. The trust indenture and warrant deed shall comply with the requirements established in Section 260, "Trust Indentures and Warranty Deeds," of this Zoning Ordinance. In addition, the trust indenture shall contain provisions for the maintenance of all common areas and facilities and the means of collecting assessments necessary for the maintenance thereof.

#### Sec. 200. - General Regulations.

The regulations hereafter established shall apply within all districts established by this Zoning Ordinance or by amendment thereto. These general regulations supplement and qualify the district regulations appearing elsewhere in this Zoning Ordinance.

#### Sec. 210. - Zoning Performance Standard Regulations.

1. *Scope of provisions.* This section contains the zoning performance standard regulations for the City. These regulations shall apply to all land uses and developments in the City.
2. *Statement of intent.* The performance standard regulations shall establish standards for vibration, noise, odor, smoke, toxic gases, emissions, radiation, glare and heat to minimize negative effects on adjacent land uses and developments.
3. *Performance standards.*
  - (1) Vibration: Every use shall be so operated that the maximum ground vibration generated is not perceptible without instruments at any point on the lot line of the lot on which the use is located.
  - (2) Noise: Every use shall be so operated that the pressure level of sound or noise generated, measured in decibels, shall not exceed at any point on the lot line the maximum decibel levels for the designated octave band as set forth in the following table for the appropriate area:

Octave Band Cycles per Second	Maximum Permitted Sound Pressure Level in Decibels	
	Within or Adjacent to "R" Residence District	Within All Other Areas
0 to 75	72	79
75 to 150	67	74
<u>150</u> to 300	59	66
300 to <u>600</u>	52	59
<u>600</u> to 1,200	46	53
1,200 to 2,400	40	47
2,400 to 4,800	34	41

4,800 and above	32	39
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- (3) Odor: Every use shall be so operated that no offensive or objectionable odor is emitted as determined by the Director of Public Works or his or her designee.
- (4) Smoke: Every use shall be so operated that no smoke from any source shall be emitted that exceeds the emission levels as may be established by ordinance.
- (5) Toxic gases: Every use shall be so operated that there is no emission of toxic, noxious, or corrosive fumes or gases which exceeds the emission levels in the requirements as may be established by ordinance.
- (6) Emission of dirt, dust, fly ash, and other forms of particulate matter: The emission of dirt, dust, fly ash and other forms of particulate matter shall not exceed the emission levels in the requirements as may be established by ordinance.
- (7) Radiation: Every use shall be so operated that there is no dangerous amount of radioactive emissions in accordance with the standards of the Federal Radiation Council, Atomic Energy Commission and Environmental Protection Agency.
- (8) Glare and heat: Any operation producing intense glare or heat shall be performed in an enclosure in such a manner as to be imperceptible along any lot line without instruments.

Sec. 220. - Off-Street Parking and Loading Requirements-General.

1. *Scope of provisions.* The regulations contained in this section and the following sections shall govern the size, number, location and design of all off-street parking and loading facilities in the unincorporated areas of the City.
2. *Minimum parking and loading requirements.* Uses in all zoning districts shall comply with the minimum requirements listed by use category in tables of the following sections:

Commercial uses	<u>Section 220A</u>
Cultural, entertainment and recreational uses	<u>Section 220B</u>
Institutional uses	<u>Section 220C</u>
Open space and agricultural uses	<u>Section 220D</u>
Residential uses	<u>Section 220E</u>
Transportation, communication and utilities	<u>Section 220F</u>

3. *Minimum off-street parking dimensions.* The regulations of this subsection shall govern the dimensions of off-street parking spaces, including those provided in developments approved in planned districts or by special procedure prior to the enactment hereof, anything in such planned district or special procedure approval to the contrary notwithstanding.

Except as otherwise provided for in this subsection, the requirements for off-street parking of the City of Black Jack Zoning Ordinance shall be implemented with regard to the minimum dimensions in the following table:

Parking Table						
A	B	C	D	E	F	G
45°	9.0'	19.7'	12.5'	12.7'	51.9'	45.6'
60°	9.0'	21.0'	17.5'	10.5'	59.5'	55.0'
90°	9.0'	19.0'	22.0'	9.0'	60.0'	—

A parking angle

B stall width

C 19 feet minimum stall to curb

D\* aisle width

E curb length per car

F curb to curb

G center to center width of double row with aisle

\* Additional width may be required where the aisle serves as the principal means of access to on-site buildings structures.

(2) Parking spaces designated for the handicapped:

- Parking spaces designated for physically handicapped persons shall be at least eight (8) feet wide, with a five-foot access aisle immediately adjacent. Two (2) handicapped parking spaces may share a common access aisle.
- Parking spaces designated for physically handicapped persons shall be located on the shortest possible accessible circulation route to an accessible entrance of the building. In separate parking structures or lots which do not serve a particular building, parking spaces for physically handicapped persons shall be located on the shortest possible pedestrian route to an accessible pedestrian entrance of the parking facility.
- Each parking space designated for physically handicapped persons shall be provided with a free-standing sign bearing the international symbol of accessibility in white on a blue background.

(3) In the event that the desired parking angle is not specified by the above table, the Director of Public Works may specify other equivalent dimensions associated with the desired parking angle by interpolating from dimensions listed in the table.

A stall dimension of eight and one-half (8½) feet by eighteen (18) feet or equivalent may be utilized for off-street parking stalls provided in excess of the minimum requirements as set forth in this section when designated for compact car use.

- (5) On-site parallel parking stalls shall be nine (9) feet by twenty-two (22) feet adjacent to a twenty-two foot two-way lane or fifteen foot one-way lane.
- (6) Curbed islands are required at ends of aisles where necessary for traffic control or drainage.
4. *Supplementary off-street parking and loading requirements.* In addition to the above parking and loading requirements, the following standards shall apply:
  - (1) In all zoning districts, all parking and loading areas, including driveways, shall be paved prior to the issuance of an occupancy permit.
  - (2) All areas for off-street parking and loading in the "C-1," "C-2" and "C-6" districts shall be arranged so that vehicles at no time shall be required to back into any street or roadway to gain access thereto.
  - (3) Off-street parking areas in the "C" Commercial District shall provide ingress and egress to any public right-of-way only at such location as approved by the St. Louis County Department of Highways and Traffic or the Director of Public Works of the City, as appropriate.
  - (4) (a)  
In the "NU" Non-Urban and all "R" Residence Districts, parking spaces provided in an enclosed structure shall not project beyond any required yard, setback or building line. Parking spaces provided in an unenclosed area shall not encroach upon the required front yard of any "NU" Non-Urban or "R" Residence District. The limitations of this paragraph may be modified in a development authorized under Section 300, "Planned Environment Unit Procedure," of this Zoning Ordinance.  
(b) Any area used for off-street parking spaces for five (5) or more vehicles, when located in any "PS" Park and Scenic, "NU" Non-Urban or "R" Residence District shall not be closer to an adjoining "PS" Park and Scenic, "NU" Non-Urban or "R" Residential District than ten (10) feet. Said parking setbacks shall be effectively screened. Such screening shall consist of a sight proof fence or wall, and such screening shall be not less than five (5) feet in height above the surface elevation of the parking area, except where sight distance regulations at street intersections require other arrangements. When requested by the property owner, the Director of Public Works may approve the use of topographic features, landscaping, or a combination of fences, walls, topographic features or landscaping in lieu of fences or walls, where such alternates will achieve a comparable effect. The limitations of this paragraph may be modified in a development plan when authorized under Section 300, "Planned Environment Unit Procedure," of this Zoning Ordinance.
  - (5) (a)  
In a "C" Commercial District, no unenclosed parking or loading space or internal drive, except for ingress and egress drives, shall be closer to the street right-of-way than fifteen (15) feet. The area within fifteen (15) feet of the street right-of-way shall be landscaped as approved by the Director of Public Works and such landscaping shall be adequately maintained. The limitations of this paragraph may be modified in a development plan when authorized under Section 180, "'C-8" Planned Commercial District," of this Zoning Ordinance.  
(b)

In a "C" Commercial District, no unenclosed parking or loading space or internal drive shall be closer than ten (10) feet to any adjoining "PS" Park and Scenic, "NU" Non-Urban or "R" Residence District. Said parking setbacks shall be effectively screened. Such screening shall consist of a sight proof fence or wall, and such screening shall be not less than five (5) feet in height above the surface elevation of the parking area, except where sight distance regulations at streets require other arrangements. When requested by the property owner, the Department of Planning may approve the use of topographic features, landscaping, or a combination of fences, walls, topographic features or landscaping in lieu of fences or walls, where such alternates will achieve a comparable effect. Except for the screening provisions, the limitations of this paragraph may be modified in a development plan when authorized under Section 180, "'C-8" Planned Commercial District," of this Zoning Ordinance.

- (6) All parking spaces required by this ordinance shall be located on the same parcel of land as the use to be served except as provided in paragraph 4(8) below.
- (7) Minimum off-street parking and loading requirements as specified in this section shall not include parking and loading spaces located in the floodplain or floodway, as determined by the Director of Public Works.
- (8) Parking for one or more uses in a "C" Commercial District may be provided on a separate lot from the use or uses to be served when said separate lot is within a similar zoning district type and within three hundred (300) feet of the use or uses to be served, as measured along a pedestrian pathway. When two (2) or more uses combine to provide the required parking space jointly, the parking space so provided shall equal the total space required if each were to provide parking space separately. Joint or remote parking areas provided in accordance with this paragraph shall be comprised of a minimum of twenty (20) stalls except when provided in conjunction with uses in the "C-1" Neighborhood Business District. Such parking must be approved by the Director of Public Works. Subsequent to approval, said parking plan and an appropriate legal instrument of agreement among the owners of the various properties involved shall be recorded with the County Recorder of Deeds. Such recorded plans and agreement shall be binding upon the owners of the properties involved and their successors and assigns and shall limit and control the use of land included in the plan to those uses and conditions approved by the Director of Public Works and agreed to by the owners of the properties involved.
- (9) No off-street parking space required under this ordinance shall be used for any other purpose. Where a change in use creates greater parking requirements than the amount being provided, an occupancy permit shall not be issued until provision is made for the increased amount of required off-street parking.
- (10) Where an addition is made to an existing use which does not comply with the parking requirements cited for such use, additional parking shall be provided in proportion to the addition.
- (11) Where no minimum requirement is specified, or when one or more of the parking requirements may be construed as applicable to the same use, lot or building, the final determination of required parking shall be made by the Department of Planning.
- (12) When located in the "C-2" Shopping District, the minimum parking requirements for shopping centers occupied by five (5) or more commercial entities and having a gross floor area of one hundred twenty-five thousand (125,000) square feet or more may be reduced by fifteen (15)

percent, when authorized by the Director of Public Works and where it has been demonstrated by study of the combined uses and customary operation of the uses that adequate parking would be provided.

- (13) The off-street parking requirements for housing for the elderly in residential zoning districts may be reduced to seventy-five hundredths (.75) space per dwelling unit when approved by the Director of Public Works. When such a reduction is approved, an area of sufficient size shall be designated on the site plan to accommodate additional parking, should conversion to conventional housing occur in the future.
- (14) The number of parking spaces required to be provided for physically handicapped persons shall be based upon the required number of parking spaces as determined by the following table:

MINIMUM ACCESSIBLE PARKING PLACES	
Total spaces required in lot	Required number of accessible spaces
1 to 10	0
<u>11</u> to 50	1
51 to 100	2
101 to 500	3
<u>500</u> or more	2 spaces for each accessible entrance, but not less than 3

Sec. 220A. - Off-Street Parking and Loading Requirements—Commercial.

Retail sales, business, personal and professional services, and office and research service facilities shall provide off-street parking and loading facilities as follows:

Use	Minimum Parking Requirement	Minimum Loading Requirement (Section <u>220G</u> )
Auto parts stores, except auto parts departments of department or similar stores	31/3 spaces for every 1000 sq. ft. gross floor area.	see Table B
Auto Sales	31/3 spaces for every 1000 sq. ft. gross	see Table A

	and showroom area, 3 spaces for every service bay in repair garage areas, and 1 space for every vehicle customarily used in the operation of this use or stored on the premisses. This shall not include space provided for vehicles for sale or lease.	
Banking Facilities	4½ spaces for every 1000 sq. ft. gross floor area (excluding areas under canopy)	none
Barber and beauty shops	3 spaces for every chair	none
Beverage shops	6½ spaces for every 1000 sq. ft. gross floor area	see Table B
Bookstores and cardshops	4½ spaces for every 1000 sq. ft. gross floor area	see Table B
Child care centers, day nurseries	2 spaces plus 1 space for every employee on the maximum shift; a paved unobstructed pick-up space with adequate stacking area (as determined by the Director of Public Works) shall be provided in addition	none

	and parking requirements or	
	1 space for every 6 children; a safe pedestrian walkway system as approved by the Director of Public Works shall be provided through parking areas to the building entrance, with a safety zone a minimum of 15 feet in width between parking spaces in front of the building entrance, shall be provided in addition to standard driveway and parking requirements	
Cigar and newspaper stands	31/3 spaces for every 1000 sq. ft. gross floor area	see Table B
Clubs and lodges	1 space for every 4 seats or 1 space for every 2 members, whichever is greater	see Table B
Commercial service facilities and retail sales uses (except as herein noted)	5½ spaces for every 1000 sq. ft. gross floor area	see Table B
Commercial vegetable and flower gardening, plant nurseries and green houses	2 spaces for every 3 employees on the maximum shift, 1 space for every vehicle customarily	none

	the use or stored on the premises, plus 5 spaces for every 1000 sq. ft. gross floor area of salesroom	
Equipment sales, service, rental and repair	31/3 spaces for every 1000 sq. ft. gross floor area	see Table A
Filling station (service station)	1 space for every employee on the maximum shift	none
Fishing tackle and bait shop	5 spaces for every 1000 sq. ft. gross floor area	none
Food markets, 5000 sq. ft. gross floor area and over, and department stores	6½ spaces for every 1000 sq. ft. gross floor area	see Table A
Food markets under 5000 sq. ft. gross floor area	31/3 spaces for every 1000 sq. ft. gross floor area	see Table B
Furniture store, retail	3 spaces for every 1000 sq. ft. gross floor area	see Table A
Hotels, motels	1 space for every sleeping unit, 2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	see Table B
Kennels	2 spaces plus 1 space for every employee	

	on the maximum shift; a paved unobstructed pick-up space with adequate stacking area (as determined by the Director of Public Works)	
Laundry and dry cleaning pick-up	5 spaces for every 1000 sq. ft. gross floor area	see Table A
Mail order sales	1 space for every employee, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	see Table A
Medical and dental offices and clinics	4½ spaces for every 1000 sq. ft. gross floor area, or 4 spaces for every doctor and 1 space for every additional employee, whichever is greater	see Table B
Offices and office buildings (except as noted herein)	31/3 spaces for every 1000 sq. ft. gross floor area	see Table B
Plumbing, air conditioning and heating equipment (sales, repairs, and warehousing)	31/3 spaces for every 1000 sq. ft. of sales and office area, 2 spaces for every 3 employees on the maximum shift, plus 1 space for every	see Table A

	vehicle customarily used in operation of the use or stored on the premises	
Research facilities and laboratories (under the same ownership or management):		
(a) less than 100,000 sq. ft.	31/3 spaces for every 1000 sq. ft. of gross floor area up to 50,000 sq. ft., plus 2½ spaces for every 1000 sq. ft. gross floor area over 50,000 sq. ft.	see Table B
(b) 100,000 sq. ft. or larger	300 spaces, plus 2 spaces for every 3 employees over 400 employees	see Table B
Restaurants, bar, cocktail lounge	1 space for every 3 seats, plus 2 spaces for every 3 employees on the maximum shift	none
Restaurants, fast food	1 space for every 2 seats, plus 2 spaces for every 3 employees on the maximum shift	none
Vehicle service centers and repair facilities	1 space for every employee on the maximum shift, 3 spaces for every service bay, and 1 space for every vehicle customarily used in operation of the use	none

Veterinary clinics and hospitals	4 spaces for every doctor, plus 1 space for every additional employee	none
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Sec. 220B. - Off-Street Parking and Loading Requirements—Cultural, Entertainment and Recreational.

Cultural, entertainment and recreational uses shall provide off-street parking and loading facilities as follows:

Use	Minimum Parking Requirement	Minimum Loading Requirement (Section <u>220G</u> )
Athletic fields	20 spaces for every diamond or athletic field, or 1 space for every 4 seats, whichever is greater. (One seat is equal to 2 feet of bench length)	none
Auditoriums, theaters, meeting rooms, and places for public assembly (except as noted herein)	1 space for every 4 seats or 1 space for every 50 sq. ft. gross floor area when there is no fixed seating	see Table B
Boat dock, harbor, marinas	0.7 spaces for every berth or mooring, 2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	none
Rowling alleys	5 spaces for every alley	none

Camping	1 dustfree 10-by-30 space for every campsite	none
Clubs and lodges	1 space for every 4 seats or 1 space for every 2 members, whichever is greater	see Table B
Community centers and private, not-for-profit recreation centers, including gymnasiums and indoor swimming pools	31/3 spaces for every 1000 sq. ft. gross floor area	none
Fairgrounds	Sufficient open land convertible to parking such that no vehicle need be parked on any street	none
Golf courses	Space equivalent to 1 percent of the total land area. Parking areas along roads or private drives may be used to fulfill this requirement	none
Golf driving ranges	1½ spaces for every tee	none
Gymnasium without bleachers or fixed seating (except as noted herein)	1 space for every 100 sq. ft. gross floor area	none
Handball, racquetball courts	3 spaces for every court	none
Ice and roller rinks	1 space for every 100 sq. ft. of skating area or playing surface	none
Indoor soccer	50 spaces for every playing field, plus 1 space for every 3 seats of spectator seating	none

	(one seat equals 2 feet of bench length), plus 2 spaces for every 3 employees on the maximum shift, but in no case less than 100 spaces	
Parks, playgrounds, picnic grounds	Space equivalent to 1 percent of the total land area. Parking area available along park roads or private drives may be used to fulfill this requirement	none
Recreation centers	31/3 spaces of every 1000 sq. ft. gross floor area	none
Retreats, without dormitories	Sufficient parking area such that no vehicle need be parked on any street nor unpaved area	none
Stadiums, sports arenas, and gymnasiums with spectator facilities	1 space for every 2 seats. (One seat is equal to 2 ft. of bench length)	see Table A
Swimming pools	2 spaces for every 100 sq. ft. of water area	none
Tennis courts	4 spaces for every court	none

Sec. 220C. - Off-Street Parking and Loading Requirements—Institutional.

Institutional uses shall provide off-street parking and loading facilities as follows:

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	Requirement	Loading Requirement (Section <u>220G</u> )
Churches	1 space for every 4 seats, (one seat equals 2 ft. of bench length) plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	none
Fire stations	1 space for every employee on the maximum shift	none
Foster homes	1 space for every 5 beds, plus 1 space for every 2 employees on the maximum shift	none
Hospitals	1 space for every 2 beds, plus 1 space for every staff doctor and employee on the maximum shift	see Table B
Libraries, reading rooms	5 spaces for every 1000 sq. ft. gross floor area, 1 space for every 6 seats in an accessory auditorium, and 2 spaces for every 3 employees on the maximum shift	none
Nursing homes	1 space for every 5 beds, 1 space for every self-care unit, and 1 space for every 2	see Table B

	maximum shift	
Police stations	2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	none
Postal stations	4 spaces for every customer service station, 2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	see Table A
Schools, public and private, all grades and vocational	1 space for every classroom and office, and 1 space for every 4 students over 16 years of age	none
Schools, special	1 space for every classroom and office	none

Sec. 220D. - Off-Street Parking and Loading Requirements—Open Space and Agriculture.

Open space and agricultural uses shall provide off-street parking and loading facilities as follows:

Use	Minimum Parking Requirement	Minimum Loading Requirement (Section <u>220G</u> )
Agriculture operations, farm buildings	Sufficient open land	none

	that no vehicle need be parked on any street	
Cemeteries	2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	none
Forest and wildlife reservations	Sufficient open land available for parking so that no vehicle need be parked on any street	none.

Sec. 220E. - Off-Street Parking and Loading Requirements—Residential.

Residential uses shall provide off-street parking and loading facilities as follows:

Use	Minimum Parking Requirement	Minimum Loading Requirement (Section <u>220G</u> )
Dwellings, multiple-family or other group-house arrangements	2 spaces for every living unit	none
Dwellings, single-family	4 spaces for every dwelling with at least two (2) of those spaces in an enclosed garage	none
Dwellings, two-family	4 spaces for each living unit with at least two (2) of those spaces in an enclosed garage	none
Group homes for the developmentally disabled	2 spaces for each such use	none

Group homes for the elderly	2 spaces for each such use	
Group living facilities for religious purposes	1 space for every 2 occupants	none

Sec. 220F. - Off-Street Parking and Loading Requirements—Transportation, Communication and Utilities.

Transportation and communication uses and utilities shall provide off-street parking and loading facilities as follows:

Use	Minimum Parking Requirement	Minimum Loading Requirement (Section <u>220G</u> )
Heliports	2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises plus 1 space for every 200 sq. ft. of lobby area	see Table A
Highway Department garages	2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	none
Public utilities and sewage treatment plants	2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle	none

	operation of the use or stored on the premises	
Radio, T.V. and other communication facilities	2 spaces for every 3 employees on the maximum shift, plus 1 space for every vehicle customarily used in operation of the use or stored on the premises	none

Sec. 220G. - Minimum Loading Requirements.

When required in conjunction with uses specified elsewhere in this Zoning Ordinance, loading spaces shall be provided in accordance with the following tables:

*Table A*

	Number of Loading Spaces*
	10 Feet by 40 Feet
Gross Floor Area (sq. ft.)	Minimum
5,000 — 24,000	1
24,000 — 60,000	2
60,000 — 96,000	3
96,000 — 144,000	4
144,000 — 192,000	5
192,000 — 240,000	6
240,000 — 294,000	7
294,000 — 348,000	8
For each additional 54,000	1 additional loading space

Table B

	Number of Loading Spaces	
	10 Feet by 40 Feet	10 Feet by 25 Feet
Gross Floor Area (sq. ft.)	Minimum	Minimum*
2,000 — 10,000	1	
10,000 — 25,000	2	
25,000 — 100,000	2	1
For each additional 100,000		1 additional

\* Each 10 feet by 40 feet loading space shall have a height clear of obstruction of not less than fourteen feet.

Sec. 230. - Miscellaneous Regulations.

1. Scope of provisions. This section contains miscellaneous regulations, generally applicable to various sections of this Zoning Ordinance.
2. Every single-family dwelling hereafter erected or structurally altered shall be located on a separate lot or tract. In no case shall there be more than one single-family dwelling on one lot or tract except for accessory buildings or uses, as defined herein, and except for any structure authorized as part of a special procedure requiring submission to the Planning and Zoning Commission of any type of site development plan for review and approval.
3. No accessory land use or development shall be established until a primary structure or use is established on the same lot. No accessory land use or development shall be allowed to continue after termination of the primary use or development on a lot.
4. In the event two (2) or more permitted, conditional or accessory uses are conducted on the same tract of land, each having a different minimum lot area requirement, the minimum lot area regulations for the combined uses shall be the largest of the required minimum areas for each of the particular uses.
5. Land area to be utilized for multiple-family access easements and large lot roadway easements shall not be deducted from gross site area in calculating the maximum number of dwelling units permitted on a parcel or tract of land.
6. Land dedicated to street right-of-way shall not be included in computing minimum lot area for the purposes of this Zoning Ordinance. However, if through dedication of street right-of-way the area of any lot or parcel already established via the provisions of the City's Subdivision Ordinance is decreased below the minimum area required in the applicable zoning district, development rights shall not be denied.
- 7.

Where a line has been established for future widening or opening of a street upon which a lot abuts, the required yard space shall be measured from the established future street line. Required yard space shall be measured from private roadway easement boundaries or from road maintenance or other road related easements where such easements abut public road rights-of-way.

8. Each corner lot shall have a rear yard and a side yard with minimum setback requirements of the applicable zoning district. The side and rear yards shall be identified by the owner of the corner lot when plans are submitted for the first building on the property.
9. All illumination structures, except for approved street lights, shall be so arranged as not to cast light directly from any source of illumination on any public right-of-way or on adjacent properties in the "NU" Non-Urban, "PS" Park and Scenic, any "R" Residence District or "C" Commercial.
10. No permits shall be issued for grading, building, or use of a site governed by a Planned District, Mixed Use District or special procedure permit which are not in accord with site development plans, site development concept plans, or site development section plans approved by the Director of Public Works.
11. Every part of a required yard shall be open to the sky, unobstructed by manmade improvements except as follows:
  - (1) Ordinary projections of skylights, sills, belt courses, cornices and ornamental features projecting not to exceed twelve (12) inches;
  - (2) Ordinary projecting of chimneys and flues, not to exceed seventy-two (72) inches in width, projecting not to exceed twenty-four (24) inches;
  - (3) Roof overhangs projecting not to exceed eighteen (18) inches, except that roof overhangs on the south side of a building may project forty-eight (48) inches into a rear yard;
  - (4) Canopy overhangs for service stations projecting a maximum of eighteen (18) inches into required front yards;
  - (5) Paved terraces having a maximum height of not more than twelve (12) inches above ground elevation at any point may project into any yard except that the projection into the front yard shall not exceed more than ten (10) feet in front of required building lines;
  - (6) In all "R" Residence Districts air conditioning units extending into side or rear yards a maximum of thirty (30) inches, with air conditioning units including mounting pedestals not to exceed forty-eight (48) inches in height above ground elevation within said side or rear yards;
  - (7) Driveways, ramps, sidewalks and parking lots as otherwise permitted by this Zoning Ordinance; and
  - (8) Basketball poles as otherwise permitted by this Zoning Ordinance.
12. The temporary structures, as set forth below, which are to be used in connection with the development and sale of a tract of land may be erected or located on said tract prior to and may remain thereon during the construction or development period.
  - (1) Temporary buildings or trailers may be used as construction offices, field offices or for storage of materials to be used in connection with the development of said tract, provided that said temporary structures are removed from said tract within thirty (30) days after completion of the project development. Temporary buildings or trailers must also be removed from said tract within thirty (30) days after voluntary suspension of work on the project or development after

revocation of building permit, or on order by the Director of Public Works upon a finding by him that said temporary structure is deemed hazardous to the public health and welfare. A bond in the amount of one thousand dollars (\$1,000.00) for their removal shall be posted with the City.

- (2) Temporary real estate offices or sales offices may be established in a display dwelling unit or temporary building. Said offices must be closed and the operation discontinued and all temporary structures and facilities must be removed from the tract (a) within thirty (30) days after all lots or dwelling units have been sold, rented, or leased; or (b) after the passage of thirty (30) days from the date of the last transaction after ninety (90) percent of the development has been sold, rented, or leased. A bond in the amount of one thousand dollars (\$1,000.00) guaranteeing removal of any such temporary structure or facility shall be posted with the City prior to commencement of use.
  - (3) No temporary buildings or trailers shall at any time be located closer than twenty-five (25) feet to a property line of any adjacent property, notwithstanding the required setbacks of the zoning district in which such temporary building or trailer is located nor shall it be located in front of required building lines.
  - (4) Any other provisions of the law notwithstanding, a building permit or an occupancy permit shall not be required for buildings or trailers permitted in paragraph 12(1) of this section.
13. In each instance in which approval of use or development of property is made subject to conditions by the City Council or Planning and Zoning Commission in the approval of a conditional use permit, special procedure, Mixed Use Development, or Planned Industrial or Commercial Development, a copy of the approved ordinance, resolution, order or permit shall be furnished by the property owner or owners or petitioner to the operator, owner, and manager, including successor operators, owners and managers. Each successor shall forward to the Director of Public Works an acknowledgment that he or she has read and understood each of the conditions relating to the use and development of the property affected by the ordinance, resolution, order or permit and agrees to comply therewith.
14. Subsequent to approval and recording or filing of a final development plan, site development plan, site development concept plan, section plan or similar plan for the development and use of property under the special procedures of this Zoning Ordinance or under the regulations of a planned district (C-8 or MXD), no development of property subject to such a plan shall be performed and no permit shall be issued for development unless such development is consistent with the plan and unless the property has been platted in accordance with the City's Subdivision Ordinance. No plat for property subject to such a plan shall be approved unless the plat is consistent with the plan.
15.
  - (1) In this subsection, the word "litter" means and includes, garbage, trash, refuse, junk, brush, inoperative machinery or other waste material; the phrase "otherwise lawful" means in compliance with applicable zoning district regulations and with all rules, regulations, ordinances, conditions, permits and licenses applicable to the property or activity, whether arising from this Zoning Ordinance or any other ordinance.
  - (2) Except as provided in this subsection:
    - (a) No persons shall throw or deposit litter on any vacant or occupied property whether owned by such person or not.
    - (b) The owner or person in control of any private property shall, at all times, maintain the premises free of litter.
  - (3) It shall be lawful:

- (b) To accumulate or store litter produced as an incident of the otherwise lawful use of the same premises where stored, where such storage is pending removal or disposal and does not exceed seven (7) days, provided the litter is placed or stored in a container or otherwise screened from the view of persons upon adjacent property or rights-of-way.
  - (c) To operate an otherwise lawful sewage treatment facility.
  - (d) To store material to be used in an otherwise lawful agricultural or nursery operation on the premises devoted to such use.
16. (1) The Director of Public Works is authorized to issue a permit for the operation or conducting of an amusement activity on a temporary basis within any zoning district. The Director of Public Works may request a report be submitted by the St. Louis County Director of Health with respect to any public health aspect of the proposal and by the City Marshal with respect to any traffic or public safety aspect of the proposal, if appropriate. For the purpose of this paragraph, "amusement activity" includes a circus, carnival, fair, art display, trade or animal show, concert, dance, rally, parade, athletic competition and any similar activity not involving the erection of any permanent structure or facility. The permit shall be issued for a specific period of time not exceeding ten (10) days. The permit shall contain such conditions as are necessary for protection of public health, safety, and traffic, and the Director of Public Works may require such assurance or guarantee of compliance with conditions as is reasonable and appropriate under the circumstances. This permit is in addition to any building permit, air pollution device, construction or operating permit, highway special use permit, or other permit or license required by law for any proposed activity or facility. No more than two (2) temporary amusement activity permits shall be issued in any calendar year with regard to any particular property; provided, however, that this limitation with respect to the number of temporary amusement activity permits shall not apply to public property, nor to property not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies.
- (2) The Director of Public Works is authorized to issue a permit to any not-for-profit organization for the installation of a holiday sales lot on a temporary basis within any zoning district, provided that said permit shall be valid for no more than thirty-five (35) calendar days prior to the holiday and five (5) calendar days after the holiday. The permit shall contain such conditions as are necessary for protection of public health, safety, and traffic, and the Director of Public Works may require such assurance or guarantee of compliance with conditions as is reasonable and appropriate under the circumstances.
- (3) The Director of Public Works is authorized to issue a permit to any church, school, or other not-for-profit organization for the establishment, on a temporary basis within any zoning district, of an outdoor sales event, service, and/or activity provided one hundred (100) percent of the profits go to charitable or public service purposes. The Director of Public Works may request a report be submitted by the St. Louis County Director of Health with respect to any public health aspect of the proposal and by the City Marshal with respect to any traffic or public safety aspect of the proposal, if appropriate. The permit shall be issued for a specific period of time not exceeding fourteen (14) consecutive calendar days. The permit shall contain such conditions as are necessary for protection of public health, safety, and traffic; and assurance or guarantee of compliance with conditions as is reasonable and appropriate under the circumstances. No more than four (4) such permits may be issued for any parcel of land in any calendar year.

Group homes for the developmentally disabled shall, in all zoning districts in which established, comply with the following space requirements:

- (1) Each bedroom occupied by one person shall contain at least eighty (80) square feet of floor space.
- (2) Each bedroom occupied by more than one person shall provide at least sixty (60) square feet of floor space per person, and no more than four (4) persons shall occupy each bedroom.
- (3) Each home shall provide eighty (80) square feet of interior floor space, excluding bedrooms, kitchens, bathrooms, closets and basements, for each occupant, including staff.

Sec. 250. - Nonconforming Uses, Lands, and Structures.

1. *Scope of provisions.* The provisions of this section shall apply to all nonconforming uses, lands, and structures. A nonconforming land use or structure is one which existed lawfully, whether by variance or otherwise, on the date this Zoning Ordinance or any amendment thereto became effective, and which fails to conform to one or more of the applicable regulations of the Zoning Ordinance or such amendment thereto, except minimum lot area, yard and setback requirements. A land use or structure which existed lawfully, whether by variance or otherwise, on the date of this Zoning Ordinance or any amendment thereto became effective and which fails to conform to those regulations of the Zoning Ordinance or such amendment thereto pertaining to minimum lot area, yard and setback requirements shall be deemed a conforming land use or structure.

Such nonconformities may be incompatible with and detrimental to permitted land uses and structures in the zoning districts in which they are situated; they inhibit present and future development of nearby properties; and they confer upon their owners and users a position of unfair advantage.

2. *Statement of intent.* Nonconformities are not to be expanded, and they should be abolished or reduced to conformity as quickly as the fair interest to the parties will permit.
3. *General provisions:*
  - (1) An existing nonconforming land use or structure shall not cause further departures from the Zoning Ordinance. An existing nonconformity may be continued except as hereinafter limited in this section. A nonconforming use may be changed to another use only in accord with the following:
    - (a) The new use may be one that is permitted in the underlying district governing the property in which the nonconformity is situated, provided that the new use complies with the regulations of that district; or
    - (b) The new use may be one that is permitted in the most restrictive district in which the nonconforming use is a permitted use, provided that the new use complies with the regulations of that district.

For the purpose of this paragraph, a permitted use means only a use listed as a permitted land use and development under one of the districts of this Zoning Ordinance, excluding the "C-8" or "MXD" Districts, and does not include a use or development which may be authorized by conditional use permit under Section 290 of this Zoning Ordinance.

- (2) The existence of any present nonconformity anywhere in the County shall not itself be considered grounds for the issuance of a variance for other property.
- (3) A nonconformity shall not be deemed to have existed on the date this Zoning Ordinance or any

(a) It was in being on a continuous basis and to its fullest extent on such date.

(b) If such nonconformity is a use, such use had not been abandoned as hereinafter defined. Provided however that nothing in this ordinance shall be deemed to require a change in the plans, construction, or designated use of any structure on which actual construction was lawfully begun in good faith prior to such date, if such construction is diligently prosecuted to completion within two (2) years following such date. Actual construction is hereby defined to include the placing of construction materials so that they are in a permanent position and fastened to the earth in a permanent manner.

- (4) A nonconforming use of land shall not be enlarged, extended or altered and a structure or part thereof devoted to a nonconforming use shall not be enlarged, extended, constructed, reconstructed, or structurally altered, except:
- (a) as may be required by law.
  - (b) in changing the use to one which is permitted in the district in which such use is situated.
  - (c) to the extent hereinafter permitted.
  - (d) to provide off-street parking or loading space.
  - (e) an existing legal nonconforming tavern or restaurant existing on March 31, 1997, or an existing tavern or restaurant which becomes nonconforming because of a subsequent change of zoning district classification, may be issued a liquor license in accord with the provisions of Chapter 4, "Alcoholic Beverages," of this Code, as amended, and such issuance and sale of liquor thereunder shall not be deemed an enlargement, extension or alteration of said use.
- (5) A nonconforming use of land shall not be moved to another part of a lot or outside the lot, and a nonconforming use of a structure shall not be moved to any part of the structure not manifestly arranged and designed for such use at the time the use became nonconforming.
- (6) Where any change is proposed to be made to a use that is permitted in the district only by a conditional use permit, such change may be made only through a conditional use permit granted pursuant to the procedure delineated by Section 290, "Conditional Use Permit," of this Zoning Ordinance.
- (7) The number of dwelling units in a nonconforming residential structure shall not be increased over the number of dwelling units in the structure at the time of the structure becoming a nonconforming structure.
- (8) Nothing in this ordinance shall be deemed to prohibit the restoration of any structure and its use where such structure has been destroyed by any means out of the control of the owner to an extent less than fifty (50) percent of its replacement value (excluding the value of the land, the cost of preparation of land and the value of any foundation adaptable to a conforming use) at the time of destruction, provided the restoration of such structure and its use in no way increases any former nonconformity, and provided further that restoration of such structure is begun within six (6) months of such destruction and diligently prosecuted to completion within two (2) years following such destruction. Whenever such structure has been destroyed by any means out of the control of the owner to an extent of more than fifty (50) percent of its replacement value (excluding the value of the land, the cost of preparation of land and the value of any foundation adaptable to a conforming use) at the time of destruction, as determined by the Director of Public Works or by any means within the control of the owner to any extent whatsoever the structure

shall not be restored except in full conformity with all regulations of the district in which such structure is situated. When a structure is determined to be substandard by the proper administrative official of the City under any applicable ordinance of the City and the cost of placing the structure in condition to satisfy the standards under such ordinance shall exceed fifty (50) percent of the reconstruction cost of the entire structure, such nonconforming structure shall not be restored for the purpose of continuing a nonconforming use. However, none of the restrictions contained in this section shall limit the authority of the Board of Adjustment to grant relief for reconstruction of a nonconforming structure, as provided in Section 400.3 of this Zoning Ordinance.

- (9) Any nonconforming building existing lawfully in the "FP" Floodplain District, which is destroyed by any means, including flood, shall not be reconstructed if the cost is more than fifty (50) percent of the market value of the structure before the damage occurred unless it is reconstructed in conformity with all provisions of this Zoning Ordinance. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.
- (10) The nonconforming use of open land for junkyards, storage (other than stockpiling of sand, gravel, and rock as an accessory operation to the extraction of raw material from the earth), and nonconforming structures containing two hundred (200) square feet of ground floor space or less shall be discontinued within five (5) years of the date of their becoming nonconforming uses by the adoption of this ordinance, amendments to this ordinance, or previous zoning ordinances.

#### 4. *Abandonment of nonconforming uses.*

- (1) Any nonconforming use which has been abandoned shall not thereafter be reestablished. Any structure or land, or structure and land in combination, which was formerly devoted to a nonconforming use which has been abandoned, shall not again be devoted to any use other than those uses which are permitted in the district in which the structure or land, or structure and land in combination, is stipulated.
- (2) The term "abandonment," as used herein, shall mean the voluntary discontinuance of a use, when accompanied by an intent not to reestablish such use. Any one of the following shall constitute prima facie evidence of intent to abandon:
  - (a) any positive act indicating such intent; or
  - (b) any conscious failure to take all necessary steps to resume the nonconforming use with reasonable dispatch in the circumstances, including advertising of the property for sale or for lease; or
  - (c) in the case of a structure or of a structure and land in combination, discontinuance of the nonconforming use of twelve (12) consecutive months; or
  - (d) in the case of land only, discontinuance of the nonconforming use for ninety (90) consecutive days, or for a total of six (6) months during any one-year period.

#### Sec. 260. - Trust Indentures and Warranty Deeds.

- 1. *Scope of provisions.* This section contains the regulations for trust indentures and warrant deeds. Any trust indenture or warranty deed required to be recorded with a development authorized by a Planned District or special procedure permit shall meet the requirements of this section.
- 2.

*Submission and review procedure.* Trust indentures and warranty deeds shall be submitted to and approved by the Director of Public Works and the City Attorney as to legal form and compliance with the regulations of this section. Submitted with a trust indenture shall be a written legal opinion prepared and signed by an attorney licensed to practice law in the State of Missouri, setting forth the attorney's legal opinion as to the legal form and effect of the trust indenture. Approved trust indentures and warranty deeds shall be filed with the Recorder of Deeds of St. Louis County simultaneously with recording of the subdivision record plat.

3. *Provisions of the trust indenture.* The following provisions shall be included in the trust indentures:
  - (1) Election of trustees. The initial board of trustees may be appointed by the developer. One-third of the trustees shall be chosen by purchasers of developed lots or units after fifty (50) percent of the lots or units have been sold; two-thirds of the trustees shall be chosen by purchasers of developed lots or units after seventy-five (75) percent of the lots or units have been sold or four (4) years cessation of substantial construction if it is determined by the City that the subdivision is not actively being developed; all of the trustees shall be chosen by purchasers of developed lots or units after all of the lots or units have been sold. The trust indenture shall provide for the method and time of the election of trustees.
  - (2) Vacancies on the board of trustees. Where the provisions of a trust indenture cannot be fulfilled by reason of unfilled vacancies among the trustees, the City Council shall upon the petition of any concerned resident or property owner of the subdivision, appoint one or more trustees to fill vacancies until such time as trustees are selected in accordance with the trust indenture. Any person so appointed who is not a resident or property owner within the subdivision shall be allowed a reasonable fee for his services by the order of appointment, which fee shall be levied as a special assessment against the property in the subdivision, and which shall not be subject to any limitations on special assessments contained in the trust indenture or elsewhere.
  - (3) Term of the indenture and title to common ground. The term of the indenture shall be for the duration of the subdivision. In the event the subdivision is vacated, thereafter, fee simple title shall vest in the then lot or unit owners as joint tenants. The rights of the joining tenant shall only be exercisable appurtenant to and in conjunction with their lot or unit ownership. Any conveyance or change of ownership of any lot or unit shall convey with its ownership in the common property, and no interest in the common property shall be conveyed by a lot or unit owner except in conjunction with the sale of a lot or unit. The sale of any lot or unit shall carry with it all the incidents of ownership of the common property although such is not expressly mentioned in the deed; provided, however, that no right or power conferred upon the trustees shall be abrogated.

Sec. 270. - Site Plan Review Procedure.

1. The requirements of this section shall apply to the review of plans where one or more buildings are to be erected on a single lot, except the following:
  - (1) Developments conditioned by planned district or special procedure permit.
  - (2) Single-family residential dwellings, including associated garages.
  - (3) Nonresidential buildings less than one thousand (1,000) square feet in gross floor area.
  - (4) Additions to non-residential buildings when the addition is less than ten (10) percent of the existing building's gross floor area, the addition does not exceed five thousand (5,000) square feet, no new curb cuts are required, and where new construction does not reduce existing

parking or significantly modify existing on-site circulation as determined by the Director of Public Works.

- (5) Enclosed stairwells.
  - (6) Canopies constructed over existing walkways, loading docks or pump islands, where new construction does not reduce existing parking or significantly modify existing on-site circulation, as determined by the Director of Public Works.
2. Site plans shall be reviewed and approved by the Director of Public Works and the Planning and Zoning Commission in accord with the following:
- (1) Compliance of the site plan with Zoning Ordinance requirements shall be established by the Director of Public Works.
  - (2) The Director of Public Works shall review and recommend approval/rejection of the right-of-way, pavement required, curb cuts and other design features of abutting public streets or private or new streets, other than multiple-family access drives within the development connecting the development with a major street or streets. Additional streets may be required for the public health, safety and welfare, when determined necessary by the Director of Public Works. On such streets, the Director of Public Works shall determine the requirements for rights-of-way, street width, width of curb cuts, street trees, sidewalks, and any other improvements in adjacent rights-of-way where not covered by the City's Subdivision Ordinance.  
  
The Director of Public Works shall review and approve the plans for conceptual compliance with the various codes and ordinances relating to grading, drainage, silt control, storm sewer services, floodplain (as it affects the development), and other applicable requirements.  
  
At such times as a development is proposed adjacent to a street that is accepted and maintained by the City, that street shall be improved in accordance with the City standards and the cost of improvement of and the dedication of half of the right-of-way adjacent to the proposed development shall be included in the overall development improvements.
  - (3) The Planning and Zoning Commission shall review and approve the internal traffic and pedestrian circulation system, landscaping, parking areas and additional characteristics of site design, as deemed appropriate. Landscaping may include recontouring, building of earth berms, vegetative covering, screening or other material alteration of the site as deemed appropriate to enhance areas outside the public right-of-way or to preserve the integrity of adjacent properties. Internal circulation shall include the location, nature, extent, construction and design of internal driveway lanes (including multiple-family access streets), parking lots, driveways to or through parking lots and any other facilities that provide vehicular access to buildings, structures and improvements upon a given lot or tract.
  - (4) The Director of Public Works shall review and approve the plans for conceptual compliance with the various codes and ordinances relating to sanitary sewer laterals and other applicable requirements of the Building and Plumbing Codes.
3. For a site plan to be accepted for review, the following information shall be placed either on the site plan or on a separate sheet accompanying the plan:
- (1) Location map, north arrow and plan scale.
  - (2) Zoning district, subdivision name, lot number, dimensions and area, and zoning of adjacent parcels where different than site.

Name, address and telephone number of the person or firm submitting the plan and the person or firm who desires the review comments forwarded to them.

- (4) Proposed use of the building and its construction type and distance from adjacent property lines.
- (5) Off-street parking spaces, required and proposed, including the number, size and location of those designated for the handicapped.
- (6) Type of sanitary sewage treatment and stormwater drainage facilities, including retention ponds.
- (7) Dimensions of existing and proposed road way pavement and right-of-way width for streets abutting the site.
- (8) Existing and proposed landscaping, including name and size of plant material.
- (9) Existing and proposed contour lines or elevations based on mean sea level datum, unless otherwise waived by the Director of Public Works.
- (10) Location and size of existing and proposed free-standing signs.
- (11) Location and identification of all easements (existing and proposed).
- (12) Location and height of all light poles.
- (13) Overall dimensions of all buildings and the gross floor area of each building.
- (14) Approximate location of any stormwater detention facilities, sink holes and springs, silt berms, ponds and other silt control facilities.

Additional information to be placed on the site plan beyond the requirements listed above may be requested based on a joint review of the plans by authorized departmental representatives of the City.

4. Upon verification of compliance with the site plan requirements stated in subsection 3 above, the plan shall be reviewed at the next regularly scheduled site plan review meeting. Joint review of the plans by the Director of Public Works and the Planning and Zoning Commission shall occur at a time agreed upon by the Director and Commission. Within ten (10) calendar days of the meeting date, a letter shall be forwarded to the person or firm submitting the plan stating the comments of the Director and Commission. Thirty (30) days from the date on the comment letter, revised plans addressing the listed comments shall be submitted for further review. If revised plans are not submitted within the specified time limit, review of the site plan will be terminated.
5. The requirements for site plan review contained in this section shall apply as the minimum requirements. Additional requirements may be stated, as necessary, and written into a policy memorandum.

#### Sec. 280. - Special Procedures.

In order to provide for uses that require particular consideration in each case because of the nature of the use and its effect on its surroundings or the community, and in order to provide the maximum flexibility in the site planning of uses and reasonable modification in uses in appropriate circumstances, all consistent with the public health, safety, and general welfare of the City and good planning practice, the following procedures are established.

#### Sec. 290. - Conditional Use Permit Procedure (CUP).

1. *Scope of provisions.* This section contains the regulations of the conditional use permit procedure. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.

*Statement of intent.* It is hereby declared that certain land uses and developments present unique problems with respect to their proper location and relationship to other land uses. Therefore, analysis and judgment of the consequences of each development and use is necessary to preserve and to promote the public health, safety and general welfare. Such land uses and developments are identified in each particular zoning district under "Conditional land use and development permits issued by the Planning and Zoning Commission."

3. *Performance standards.* All uses established by conditional use permit shall operate in accord with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance. These performance standards are minimum requirements and may be made more restrictive in the conditions governing the particular development or use authorized by conditional use permit.
4. *Height limitation for structures.* The total height of any structure shall be limited by the conditions governing the particular development or use authorized by conditional use permit. However, the total height of any structure authorized by conditional use permit shall not exceed the least restrictive regulations of the particular zoning district in which the conditional development or use is located.
5. *Lot area, lot dimension, development limitation and yard requirements.* Any development or use authorized by conditional use permit shall abide by the lot area, lot dimension, development limitation, and yard requirements of the particular zoning district in which the conditional development or use is located. However, these requirements may be made more restrictive in the conditions governing the particular development or use authorized by conditional use permit.
6. *Off-street parking and loading requirements.* The minimum off-street parking and loading requirements, including required setbacks for parking areas, loading spaces and internal drives for any development or use authorized by conditional use permit shall not be reduced below the minimum requirements as set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance. However, these requirements may be made more restrictive in the conditions governing the particular development or use authorized by conditional use permit.
7. *Procedures.* The granting of a conditional use permit may be initiated by a verified application of one or more of the owners of record or owners under contract of a lot or tract of land, or their authorized representatives, or by a resolution of intention by the Planning and Zoning Commission or the City Council. Procedures for application, review, and approval of a conditional use permit shall be as follows:
  - (1) Application. Application for a conditional use permit for a specific tract of land shall be addressed to the Director of Public Works and filed in said Director's public office. The application shall be filed on forms prescribed for that purpose by the Planning and Zoning Commission and be accompanied by the following:
    - (a) Filing fee per requirements of Section 350, "Fees," of this Zoning Ordinance.
    - (b) Legal description of the property.
    - (c) Outboundary plat of the property.
    - (d) Preliminary development plan, including, but not limited to the following:
      - (i) Proposed uses. Approximate location and designated uses of buildings and other structures as well as parking and open areas shall be indicated.
      - (ii) Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum. Floodplain areas shall be delineated.

Approximate location of all isolated trees having a trunk diameter of six (6) inches or more, all tree masses and proposed landscaping.

(iv) Two (2) cross-section profiles through the site showing preliminary building form, existing natural grade and proposed final grade.

(v) Proposed ingress and egress to the site, including adjacent streets.

(vi) Preliminary plan for provision of sanitation and drainage facilities.

- (2) Public hearing. A public hearing on the application shall be held by the Planning and Zoning Commission in accordance with the provisions of Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance except that the posted public notice signs shall indicate that the public hearing is for a conditional use permit. The public hearing shall be held within sixty (60) days of verification by the Director of Public Works that the petition meets the minimum application requirements. The public hearing requirements shall be the same if a petition for a conditional use permit is initiated by resolution of intention by the Planning and Zoning Commission or the City Council.
- (3) Approval or denial of application. Subsequent to public hearing, the Planning and Zoning Commission shall file a report with the City Council in which the Planning and Zoning Commission shall grant or deny each application for a conditional use permit and state the reasons therefor. The Planning and Zoning Commission may permit those conditional uses consistent with good planning practice, can be operated in a manner that is not detrimental to the permitted developments and uses in the district, can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area, and are deemed essential or desirable to preserve and promote the public health, safety, and general welfare of the City. In approving such conditional uses, the Planning and Zoning Commission shall impose such conditions as it determines necessary. Said conditions shall include, but not be limited to, the following:
- (a) Permitted uses, including maximum floor area.
  - (b) Performance standards.
  - (c) Height limitations.
  - (d) Minimum yard requirements.
  - (e) Off-street parking and loading requirements.
  - (f) Sign regulations as set forth in Chapter 17.5, "Signs," of this Code.
  - (g) Minimum requirements for site development plans.
  - (h) Time limitations for commencement of construction.
- (4) Permit effective—When. Unless the City Council exercises its power of review or a duly filed protest is received by the City Clerk, a conditional use permit or an amendment thereto shall become effective after thirty (30) days of the City Council's receipt of the Planning and Zoning Commission's report granting the application. In the event that a conditional use permit is filed in conjunction with a required change of zoning, the permit shall not become effective until the date of enactment of the ordinance authorizing the zoning change.
- (5) Effect of denial. Upon denial by the Planning and Zoning Commission of an application for a conditional use permit, the Commission shall notify the applicant of the denial. If no appeal is filed from the denial and if the City Council does not exercise its power of review, no subsequent application for a permit with reference to the same property or part thereof shall be filed by any

applicant until the expiration of twelve (12) months after the denial. No provision herein shall be construed to prevent the Planning and Zoning Commission or the City Council from initiating the procedure provided in this section by a resolution of intention at any time.

8. *Appeal, protest or City Council review of Planning and Zoning Commission decision:*

- (1) Appeal by petitioner from decision of denial. The petitioner may file an appeal to the City Council of a Planning and Zoning Commission denial of an application for a conditional use permit or an amendment thereto in accord with the provisions of Section 330, "Appeal and Protest Procedure for Special Procedures," of this Zoning Ordinance.
- (2) Protest by specified nearby property owners to decision of approval. Specified nearby property owners may file a protest with the City Council against the Planning and Zoning Commission's approval of an application for a conditional use permit or an amendment thereto in accord with the provisions of Section 330, "Appeal and Protest Procedure for Special Procedures," of this Zoning Ordinance.
- (3) City Council review of Planning and Zoning Commission decision:
  - (a) Within thirty (30) days after receipt of the Planning and Zoning Commission's report, the City Council, upon motion adopted by majority vote, may exercise the power of review of any Planning and Zoning Commission decision on an application for a conditional use permit or an amendment thereto.
  - (b) Upon adoption of the motion to exercise the power of review, the City Council shall refer the subject to the Planning and Zoning Commission. The Planning and Zoning Commission shall respond thereon to the City Council, disclosing in what respect the application and facts offered in support thereof met or failed to meet the criteria specified in this section.
  - (c) Before acting on the conditional use permit, the City Council shall set the matter for hearing. The City Council shall give written notice of such hearing to the applicant and all other persons who appeared and spoke in opposition to the application at the public hearing before the Planning and Zoning Commission or to the protesters in the case of a protest. The applicant shall be heard at the hearing. In addition, any other person or persons who, in the discretion of the City Council, will be aggrieved by any decision or action with respect to the conditional use permit may also be heard at the hearing.
- (4) City Council decision. Following the hearing by the City Council on an application, the City Council may affirm, reverse or modify, in whole or in part, any determination of the Planning and Zoning Commission. An affirmative vote of two-thirds of the members of the whole City Council shall be required to reverse or modify any determination of the Planning and Zoning Commission.

9. *Site development plans.* Subsequent to the effective date of the conditional use permit, a site development plan shall be submitted for review and approval to the Planning and Zoning Commission or Director of Public Works, as specified in the conditions of the permit. The plan shall contain the minimum requirements established in the conditions governing the conditional use permit. No building permits or authorization for improvement or development for any use requested under provisions of this permit procedure shall be issued prior to approval of such plan. The approved plan shall be retained on file by the Director of Public Works.

10. Procedure to amend the conditions of conditional use permit or site development plan. In order to amend the conditions of an existing conditional use permit or to amend the site development plan approved for a conditional use permit, the procedure shall be as follows:

- (a) The property owner or authorized representative shall submit a written request to amend conditions to the Director of Public Works for review. The Director of Public Works shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
    - (b) The Director of Public Works shall then forward the request and its report to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the proposed condition amendments and file a report with the City Council in which the Commission shall grant, deny or modify the requested condition amendments. If the Planning and Zoning Commission determines that the requested condition amendments are not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Commission may require a new public hearing on the matter in accord with the proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
  - (2) To amend the site development plan:
    - (a) The property owner or authorized representative shall submit an amended site development plan to the Director of Public Works for review. The Director of Public Works shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
    - (b) If the Director of Public Works determines that the proposed amendment to the site development plan is not in conflict with the original proposal as advertised and the preliminary development plan, and meets all conditions of the conditional use permit, the Director of Public Works may approve said amended plan. The approved plan shall be retained on file by the Director of Public Works.
    - (c) If the Director of Public Works determines that the proposed amendment to the site development plan is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, or with the preliminary development plan, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall review the proposed site plan amendment and make a final determination. The Planning and Zoning Commission may, if deemed necessary, require a new public hearing on the matter in accord with proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
11. *Appeal to Commission of a decision by the Director of Public Works in reviewing development plans.* The petitioner/developer may appeal to the Planning and Zoning Commission a decision by the Director of Public Works in cases where the Director of Public Works is authorized to review development plans. The petitioner shall have a fifteen (15) day period in which to file a written appeal and plan with the Planning and Zoning Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Director of Public Works. The Planning and Zoning Commission shall make the final determination of the matter. No exceptions may be granted that are in violation of the particular permit governing the development plan.
12. *Recording.* Prior to the issuance of any building permit or permit authorizing the use of the property in question, the property owner shall record a copy of the approved conditional use permit, including attached conditions, and any subsequent amendments thereto and the legal description of the tract with the St. Louis County Recorder of Deeds.

13. *Time limit of conditional use permits.* Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in a particular permit, the property owner may request that the conditional use permit be reviewed by the Planning and Zoning Commission, which may extend it for an unlimited period or for a specified additional period of years.
14. *Failure to commence construction.* Unless otherwise stated in the conditions of a particular conditional use permit, substantial work or construction shall commence within two (2) years of the effective date of the permit, unless such time period is extended through appeal to and approval by the Planning and Zoning Commission. If no extension of time is received or granted within six (6) months subsequent to the two (2) year period following the effective date of the conditional use permit, the permit shall terminate.
15. *Development of conditional uses and permitted land uses on same tract of land.* Nothing shall prevent the establishment of land uses or developments authorized by conditional use permit on the same tract of land with one or more permitted land uses and developments specified in the regulations of the governing zoning district. However, the development or use authorized by conditional use permit shall abide by the conditions of the permit and the permitted land use and development shall adhere to the regulations of the governing zoning district. A permitted land use or development existing at the time of submittal of a site development plan for a development or use authorized by conditional use permit shall be shown on the plan. No permitted use or development shall at any time cause the violation of any condition imposed by a conditional use permit.

Sec. 300. - Planned Environment Unit Procedure (PEU).

1. *Scope of provisions.* This section contains the regulations of the planned environment unit procedure. The regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.
2. *Statement of intent.* The intent of this section is to provide a voluntary and alternate zoning procedure in the Residence Districts in order to permit flexibility in building types, encourage economic and energy efficient subdivision design, and encourage the provision of supporting community facilities in the development of diverse, sound, urban developments under conditions of approved site and development plans.
3. *Applicable zoning districts.* The planned environment unit procedure may be utilized for developments containing five (5) or more lots or units in the Residence Districts.
4. *Authorized developments and limitations.* The planned environment unit procedure may authorize the following development types and standards:
  - (1) Any residential use and supporting community facilities.
  - (2) Any noncommercial use permitted in the zoning district within which the planned environment unit lies. The area and yard requirements for nondwelling uses shall not be diminished unless authorized by the ordinance authorizing the planned environment unit.
  - (3) Local public utility facilities.
  - (4) In planned environment unit developments containing ten (10) or more acres, the following commercial uses may be authorized, when located in a separate structure or within a multiple-family residence building:
    - (a) adult and child care centers, nursery schools, or day nurseries.
    - (b) barber or beauty shops.

- (d) laundry or dry cleaning pick-up stations.
- (e) medical offices.
- (f) offices.
- (g) restaurants, excluding fast food restaurants.
- (h) retail stores for goods and services.
- (i) self service laundries or dry cleaning facilities.

The above commercial uses shall not occupy more than five (5) percent of the total gross floor area of all residential buildings within the development, excluding garages. Primary access to these uses shall be from roads and walkways within the development and the uses shall be oriented to and coordinated with the total development. No freestanding signs shall be allowed for the commercial uses. Attached business signs may be authorized by the provisions of the City's Sign Ordinance, Chapter 17.5 of this Code, but no one (1) sign shall exceed fifty (50) square feet in area.

- (5) Lot area, yard setback and height requirements shall be as established in the ordinance authorizing the planned environment unit, with the following restrictions:
  - (a) Height limitations for structures may be modified by the Planning and Zoning Commission with respect to any structure proposed in an application for a planned environment unit, provided that any residential structure exceeding three (3) stories in height or thirty-five (35) feet shall be set back from all planned environment unit boundary lines at least one (1) additional foot for each foot of height above thirty-five (35) feet above the average finished ground elevation at the perimeter of such structure.
  - (b) Setbacks along boundary lines of a planned environment unit and off-street parking requirements applicable in any district shall in no event be diminished by the Planning and Zoning Commission. However, the Planning and Zoning Commission may require that open parking spaces be depressed below the grade of the remainder of the property or screened by walls, fences, or plant material, or by both methods in order to preserve and complement the general character of any existing developments on adjacent properties.
  - (c) In the event that greater than fifty (50) percent of the existing dwelling structures on the same side of a street and in both directions from the proposed development, for a distance of five hundred (500) feet or to the nearest intersecting street, whichever distance is less, have a variation in front yard setbacks of no more than ten (10) feet, the required front yard for structures on that side of the street in the proposed development shall be the average setback of the existing dwelling structures with less than a ten-foot variation in front yard setback. However, in no case shall any building be located closer than fifteen (15) feet from any roadway right-of-way line, nor shall a setback of greater than sixty (60) feet be required.
- 5. *Procedures.* Procedures for filing, review, and approval of the planned environment unit procedure shall be as follows:
  - (1) *Application.* Application for a planned environment unit for a specific tract of land shall be initiated by the filing of a verified application by the owner or owners of record, or owners under contract of a lot or tract of land, or their authorized representatives. Application shall be addressed to the Planning and Zoning Commission and submitted to the Director of Public Works upon forms prescribed for such purpose by the Planning and Zoning Commission and accompanied by the following:

- (a) Filing fee per requirements of Section 350, "Fees," of this Zoning Ordinance.
  - (b) Preliminary development plan, which shall contain not less than the information required on a sketch plan in accord with Section 030 of the City's Subdivision Ordinance, and shall also include the following:
    - (i) An outboundary plat of the tract with a licensed land surveyor's seal and statement of verification regarding the source of boundary dimensions, bearings and source of contour data.
    - (ii) Type, number and general location of proposed lots or units.
    - (iii) Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum. Floodplain areas shall be delineated.
  - (2) Density calculations. The planned environment unit shall not contain more units than would be permitted under the regulations of the Residence District or Districts within which the development lies. The maximum number of lots or units allowable shall be calculated by dividing the net area of the development by the minimum lot area requirements for a residential unit of the Residence District or Districts in which the subdivision is located. The net area is gross area of the development minus the following:
    - (a) Land within the one-hundred-year floodplain elevation, as identified in Section 070, "Floodplain District Regulations," of this Zoning Ordinance.
    - (b) Land which is utilized for roadway right-of-way purposes, excluding right-of-way dedication for widening existing roadways.
  - (3) Public hearing. A public hearing on the petition shall be held by the Planning and Zoning Commission in the same manner and with the same public notice procedure as required for a change of zoning. The public hearing shall be held within sixty (60) days of verification that the application meets the minimum application requirements.
6. *Planning and Zoning Commission recommendation.* Upon review of the application, the Planning and Zoning Commission may recommend approval subject to appropriate conditions or denial. Conditions may relate to, but need not be limited to, the following:
- (1) Conditions relative to the type and extent of improvements and landscaping.
  - (2) Conditions governing development, improvements and maintenance of common ground.
  - (3) Conditions relative to the maximum or minimum gross floor area per dwelling unit.
  - (4) Conditions relative to sign regulations.

When approval has been recommended subject to conditions, and the conditions would cause a substantial change in the site plan presented at public hearing, the Planning and Zoning Commission shall withhold forwarding a recommendation to the City Council pending receipt of a revised plan from the petitioner reflecting compliance with the conditions. The petitioner shall be allowed a maximum of forty-five (45) days to submit the revised plan to the Director of Public Works. Said plan shall be reviewed by the Planning and Zoning Commission at its next executive meeting. If the petitioner fails to submit the revised plan, the Planning and Zoning Commission shall forward its recommendations to the City Council. The Planning and Zoning Commission's recommendation shall be based upon whether the planned environment unit proposal is consistent with good general planning practice and with good site planning, can be constructed and operated in a manner that is not detrimental to the permitted uses in the District, would be visually compatible with the uses in the surrounding area, and is deemed desirable to promote the general welfare of the City. The Planning and Zoning Commission shall also consider the architectural.

landscape and other relationships, which may exist between the proposed development and the character of the surrounding neighborhood and shall prescribe and require such physical treatment or other limitations as will, in its opinion, enhance the neighborhood character. The recommendation, along with preliminary plans and conditions where approval has been recommended, shall be forwarded to the City Council for its consideration.

7. *City Council action.* Upon receipt of the Planning and Zoning Commission's recommendation, the City Council shall either approve the planned environment unit by approving an ordinance authorizing the development or deny the application. If the application is approved, the matter shall be returned to the Planning and Zoning Commission for consideration of a final development concept plan.
8. *Site development concept plan and section plan.* Requirements for site development concept plans and section plans shall be as follows:
  - (1) Site development concept plan requirements. Site development concept plans shall include, in addition to specific information required by the ordinance authorizing the development, the following general information.
    - (a) Outboundary plat and legal description of the property.
    - (b) Location of all roadways adjacent to the property and general location, size and pavement widths of all interior roadways.
    - (c) General design of the development including unit types (i.e. single-family or garden apartment), number of each unit type proposed, location of units, minimum and maximum size of single-family lots, approximate size of multiple family structures, and location and size of common areas and recreation facilities.
    - (d) Location and size of any commercial uses, types of uses proposed and general parking layout.
    - (e) Zoning District lines and flood plain boundaries.
    - (f) Density calculations.
  - (2) Planning and Zoning Commission review. The Planning and Zoning Commission shall determine if the site development concept plan complies with the conditions of the ordinance authorizing the development. The Planning and Zoning Commission's approval or disapproval of the site development concept plan shall also be based upon whether the plan is consistent with good general planning practice, consistent with good site planning, can be constructed and operated in a manner that is not detrimental to the permitted uses in the district, would be visually compatible with the uses in the surrounding area and is deemed desirable to promote the general welfare of the City. The Planning and Zoning Commission shall also consider architectural, landscape and other relationships which may exist between the proposed development and the character of the surrounding neighborhood and shall prescribe or require such physical treatment or other limitations as will, in its opinion, enhance the neighborhood character.
  - (3) Recording. Upon approval of the site development concept plan by the Planning and Zoning Commission, the owner(s) shall, within sixty (60) days of the approval date, record the plan with the St. Louis County Recorder of Deeds as a planned environment unit. Failure to record the site development concept plan within the time specified shall cause approval of the plan to terminate.

An extension of recording time may be granted by the Planning and Zoning Commission for a period not to exceed one hundred eighty (180) days from the date of approval by the Planning and Zoning Commission.

- (4) Site development section plans. A site development section plan for each plat of phase of the planned environment unit shall be submitted to the Director of Public Works for review and approval. The site development section plan shall contain such information as is required by the ordinance establishing the planned environment unit, in addition to such other information required on a preliminary plat in accord with section 040 of the City's Subdivision Ordinance. The plans shall be retained on file by the Director of Public Works. An approved site development section plan shall constitute an approved preliminary plat for subdivision purposes. No building permits or authorization for improvement or development for any use authorized under provisions of the planned environment unit ordinance governing the tract shall be issued prior to approval of such plans.

With the approval of the site development section plan for the last phase of plat of a development, a plan indicating the approved design for the entire development shall be recorded with the St. Louis County Recorder of Deeds.

Where elements within the designated planned environment unit boundary are necessary to the support of a given section, but not included within the section boundary, these elements shall be included on a site plan accompanying, or a part of, the site development section plan.

For developments consisting of a single plat or phase, the site development concept plan may include all the information required for concept plans and section plans, and the requirement for site development section plans may be waived.

9. *Procedures to amend the planned environment unit ordinance or required plans.* In order to amend provisions of an existing planned environment unit ordinance or to amend a site development concept or section plan approved for the planned environment unit, the procedure shall be as follows:

- (1) To amend the planned environment unit ordinance:
  - (a) The property owner or authorized representative shall submit a written request to amend ordinance conditions to the Director of Public Works for review. The Director of Public Works shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
  - (b) If the Director of Public Works determines that the requested amendment is consistent in purpose and content with the original proposal as advertised, the Director of Public Works shall so report to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the request and the report of the Director of Public Works, and then forward a recommendation to the City Council. A recommendation of approval shall include conditions to be included in the amended ordinance.
  - (c) If the Director of Public Works determines that the requested amendment is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Director shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed ordinance amendment and forward a recommendation to the City Council. The Planning and

Zoning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in section 360, "Procedure for amending the Zoning Ordinance," of this Zoning Ordinance.

(2) To amend the site development concept or section plans:

- (a) The property owner or authorized representative shall submit an amended site development concept or section plan to the Director of Public Works for review. The Director shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing, the preliminary development plan approved by the City Council and the initial site development concept plan approved by the Commission.
- (b) If the Director of Public Works determines that the proposed amendment to the site development concept plan is not in conflict with the original proposal as advertised and the approved preliminary development plan, and meets all conditions of the planned environment unit procedure ordinance, said plan shall be reviewed and approved by the Planning and Zoning Commission. Said amended plan shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission approval.

However, when conditions of a particular planned environment unit procedure ordinance are amended which necessitate an amended site development concept plan, the Commission shall review and approve said amended plans and they shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of Planning and Zoning Commission.

- (c) If the Director of Public works determines that the proposed amendment to the site development concept plan is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, or with the preliminary development plan approved by the City Council, the Director shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed site plan amendment and make a final determination. The Planning and Zoning Commission may, if deemed necessary forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
- (d) If the Director of Public Works determines that the proposed amendment to the site development section plan is not in conflict with the approved site development section plan and meets all conditions of the planned environment unit ordinance, the Director may approve said amended plan. Said plan shall be retained on file by the Director of Public Works.

10. *Appeal to Commission of a decision by the Department in reviewing development plans.* The petitioner/developer may appeal to the Planning and Zoning Commission from a decision by the Director of Public Works, in cases where the Director of Public Works is authorized to review development plans. The petitioner shall have a ten (10) day period in which to file a written appeal and plan with the Planning and Zoning Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Director of Public Works. The commission will make the final determination of the matter. No exceptions will be granted that are in violation of the particular

11. *Time period for submission of plans and commencement of construction and extensions of time.*

- (1) Site development concept plan. The site development concept plan shall be submitted to the Planning and Zoning Commission for review within eighteen (18) months after approval of the application by the City Council unless such time is extended by the Planning and Zoning Commission. One (1) such extension shall be allowed for a maximum of eighteen (18) months.
- (2) Commencement of construction. Substantial construction shall commence within two (2) years of approval of the site development concept plan, unless otherwise authorized by ordinance. Where due cause is shown by the petitioner, the Planning and Zoning Commission may extend the period to commence construction for not more than one (1) additional year. As used in this section, substantial construction shall mean final grading for roadways necessary for first approved plat or phase of construction and commencement of installation of sanitary and storm sewers.
- (3) Appeal of a denial of an extension of time. Upon the denial by the Planning and Zoning Commission of a request to extend the time for the filing or recording of a site development concept plan, or to commence construction, the applicant may file an appeal with the City Council requesting a determination from that body, except in such instances where the maximum time extensions have been granted.

A notice of appeal shall be filed within fifteen (15) days of action by the Planning and Zoning Commission. Notice of appeal to the City Council shall be in writing and shall be filed in duplicate with the City Clerk. The applicant shall have an additional thirty (30) days to file the appeal. The appeal shall set forth the specific causes why the previously approved time for the filing or recording of a site development concept plan, or beginning construction could not be met, and within what period of time such requirement can be met.

Upon receipt of an appeal for a time extension, the City Council shall refer same to the Planning and Zoning Commission for a report as to whether or not the facts offered in the appeal have or have not justified the requested time extension. The City Council on receipt of the Commission's report may affirm, reverse, or modify, in whole or in part, any determination of the Planning and Zoning Commission or may grant or deny any request for an extension of time upon which the Planning and Zoning Commission has taken action. An affirmative vote of five (5) members of the whole City Council shall be required to reverse, modify, or amend any determination of the Planning and Zoning Commission. A majority vote of the whole City Council shall be sufficient to affirm any determination of the Planning and Zoning Commission.

- (4) Termination of planned environment unit. In the event the site development concept plan is not submitted or substantial construction has not commenced within the prescribed time limits, the planned environment unit shall terminate, and the Planning and Zoning Commission shall within forty-five (45) days initiate a resolution of intent for the purpose of a new public hearing to revert the property to its prior classification in accord with the proceedings specified in Section 360, "Procedure for amending the Zoning Ordinance," of this Zoning Ordinance. Where rezoning has been granted in conjunction with a planned environment unit and said planned environment unit has terminated, no building permit shall be issued on that property until completion of action by the City Council on a resolution of intent to rezone said property in accord with the provisions of the above noted section.

*Dedications for public schools and public parks.* A planned environment unit may include land designated for dedication for public school or public park use, which land may be considered part of the gross acreage of the development in computing the maximum number of lots that may be created or dwelling units that may be authorized, provided that:

- (1) The area of the proposed planned environment unit is at least thirty (30) acres in the case of a public school dedication and sixty (60) acres in the case of a public park dedication.
  - (2) No tract of less than five (5) acres is designated for dedication for public school use, or ten (10) acres for public park use. However, a tract of land less than this minimum may be accepted for dedication for public school or public park use if it is an addition to an existing or proposed park or school site respectively, or is recommended by the Park and Recreation Board as a part of a system of hiking and riding trails.
  - (3) The proposed school site is compatible with a generalized plan for school locations published by the School District.
  - (4) Prior to approval by the Planning and Zoning Commission of a site development concept plan indicating a public park or public school site, a written statement shall be received from the Park and Recreation Board recommending approval of the proposed park dedication; or a written notification shall be received from the School District that the School District has agreed to accept the public school site dedication.
  - (5) Prior to approval of a site development concept plan, a written agreement between the petitioner and the School District shall be submitted to the Planning and Zoning Commission for review. This agreement shall indicate who is responsible for the installation of required improvements adjacent to or affecting the school site, and when the improvements will be installed.
  - (6) The proposed site is dedicated to public school or public park use in a manner approved by the City Attorney as to legal form prior to recording of the site development concept plan.
  - (7) The site development concept plan identifies the boundaries of the dedicated tract within the planned environment unit.
  - (8) The deed of dedication for public park or public school use shall provide that in the event the property shall no longer be used for that purpose, it will revert to the trustees of the subdivision in which it is located as common land. The trust indenture required in subsection 14 below shall provide for the manner in which the common land shall be treated, so that the provisions of subsection 14 are complied with.
13. *Trust indentures and warranty deeds.* In developments where common areas, which may include open spaces, recreational areas, or other common grounds, are provided and the acreage of which is included in the gross acreage for density calculation purposes, a trust indenture shall be recorded simultaneously with the record plat. The indenture shall provide for the proper and continuous maintenance and supervision of said common land by trustees to be selected and to act in accordance with the terms of such indenture and the common land shall be deeded to the trustees under said indenture by general warranty deed. The trust indenture and warranty deed shall comply with the requirements established in Section 260, "Trust Indentures and Warranty Deeds," of this Zoning Ordinance. In addition, the trust indenture shall contain the following provisions:
- (1) That the common areas, including open spaces, recreational areas, or other common grounds, shall be for the sole benefit, use, and enjoyment of the lot or unit owners, present and future, of

outside the planned environmental unit. If residents outside the planned environment unit are permitted to use the common areas, the indenture shall contain provisions which shall provide, in essence, the following:

- (a) No resident of the planned environment unit shall be denied the use of the open space, recreational facilities, or other common ground for any reason related to the extension of such privilege to nonresidents of the planned environment unit;
  - (b) All rules and regulations promulgated pursuant to the indenture with respect to residents of the planned environment unit shall be applied equally to the residents;
  - (c) All rules and regulations promulgated pursuant to the indenture with respect to nonresidents of the planned environment unit shall be applied equally to the nonresidents;
  - (d) At any time after the recording of the indenture, a majority of the residents of the planned environment unit, by election duly called, may elect to allow or disallow usage of the open space, recreational facilities or other common grounds by nonresidents of the planned environment unit.
- (2) The indenture shall contain provisions for the maintenance of all common areas and facilities and the means of collecting assessments necessary for the maintenance thereof.
  - (3) In planned environment unit developments containing attached units, the indenture shall contain provisions for maintenance of common walls.

(Ord. No. 698, § 1, 11-21-00)

#### Sec. 310. - Commercial-Industrial Designed Development Procedure (CIDD).

1. *Scope of provisions.* This section contains the regulations of the commercial-industrial designed development procedure. These regulations are supplemented and qualified by additional general regulations appearing elsewhere in this Zoning Ordinance which are incorporated as part of this section by reference.
2. *Statement of intent.* The purpose of this section is to provide a permissive, voluntary, and alternate zoning procedure in the "C" Commercial District in order to permit minor flexibility in commercial and industrial uses beyond those permitted in the particular districts, under approved site plans and conditions.
3. *Applicable zoning districts.* In any "C" Commercial District, where a particular use is not allowed as a permitted or conditional use in that district, a tract of land may be used for a single commercial or industrial use of a type listed in any of the "C" Commercial District as a permitted or conditional use, provided that approval is obtained for use of the commercial industrial designed development procedure. However, there must be a direct relationship between the requested use and an existing permitted use in the district in which the use is to be located.
4. *Performance standards.* Any uses established by the commercial-industrial designed development procedure shall operate in accord with the appropriate performance standards contained in Section 210, "Zoning Performance Standard Regulations," of this Zoning Ordinance. These performance standards are minimum requirements and may be made more restrictive in the conditions of the ordinance governing the particular commercial industrial designed development procedure.
5. *Height limitation for structures.* The total height of any structure shall be limited by the conditions of the ordinance governing the particular commercial-industrial designed development procedure. However, the total height of any structure authorized by commercial-industrial designed development

procedure shall not exceed the least restrictive regulations of the particular zoning district in which the use is located.

6. *Lot area, lot dimension development limitation and yard requirements.* Any use authorized by the commercial-industrial designed development procedure shall abide by the lot area, lot dimension, development limitation and yard requirements of the particular zoning district in which the use is located. However, these requirements may be made more restrictive in the conditions of the ordinance governing the particular commercial-industrial designed development procedure.
7. *Off-street parking and loading requirements.* The minimum off-street parking and loading requirements, including setbacks for parking areas, loading spaces and internal drives, for any use authorized by the commercial-industrial designed development procedure shall not be reduced below the minimum requirements as set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance. However, these requirements may be made more restrictive in the conditions of the ordinance governing the particular commercial-industrial designed development procedure.
8. *Procedures.* Authorization for use of the commercial-industrial designed development procedure may be initiated by a verified application of one or more of the owners of record or owners under contract of a lot or tract of land, or their authorized representative, or by a resolution of intention by the Planning and Zoning Commission or the City Council. Procedures for application, review and approval of the commercial-industrial designed development procedure shall be as follows:
  - (1) *Application.* Application for the commercial-industrial designed development procedure for a specific tract of land shall be addressed to the St. Louis County Planning Commission and filed in its public office. The application shall be filed on forms prescribed for that purpose by the Planning and Zoning Commission and be accompanied by the following:
    - (a) Filing fee per requirements of Section 350, "Fees," of this Zoning Ordinance.
    - (b) Legal description of the property.
    - (c) Out boundary plat of the property.
    - (d) Preliminary development plan, including, but not limited to the following:
      - (i) Proposed uses. Approximate location and designated uses of buildings and other structures as well as parking and open areas shall be indicated.
      - (ii) Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum. Floodplain areas shall be delineated.
      - (iii) Approximate location of all isolated trees having a trunk diameter of six (6) inches or more, all tree masses, and proposed landscaping.
      - (iv) Two (2) cross-section profiles through the site showing preliminary building form, existing natural grade and proposed final grade.
      - (v) Proposed ingress and egress to the site, including adjacent streets.
      - (vi) Preliminary plan for provision of sanitation and drainage facilities.
  - (2) *Public hearing.* A public hearing on the application shall be held by the Planning and Zoning Commission in accordance with the provisions of Section 360, "Procedures for Amending the Zoning Ordinance," except that the posted public notice signs shall indicate that the public hearing is for the commercial-industrial designed development procedure. The public hearing shall be held within sixty (60) days of verification by the Director of Public Works that the petition

meets the minimum application requirements. The public hearing requirements shall be the same if a petition for the commercial-industrial designed development procedure is initiated by resolution of intention by the Planning and Zoning Commission or the City Council.

- (3) Planning and Zoning Commission recommendation. No action shall be taken by the City Council with respect to the petition until it has received the recommendation of the Planning and Zoning Commission. The Planning and Zoning Commission's recommendation shall be based upon whether the commercial-industrial designed development procedure proposal is consistent with good planning practice; is consistent with good site planning; there is a direct relationship or linkage between the use for which a permit is sought and an existing permitted use in the district in which the use is to be located; can be operated in a manner that is not detrimental to the permitted developments and uses in the district; is visually compatible with the permitted uses in the surrounding area; and is deemed desirable to promote the general welfare of the City. A recommendation of approval shall include recommended conditions to be contained in the ordinance authorizing the commercial-industrial designed development procedure. Such conditions shall include but not be limited to the following:
    - (a) Permitted uses, including maximum floor area.
    - (b) Performance standards.
    - (c) Height limitations.
    - (d) Minimum yard requirements.
    - (e) Off-street parking and loading requirements.
    - (f) Sign regulations.
    - (g) Minimum requirements for site development plans.
    - (h) Time limitations for commencement of construction.
  - (4) City Council action. Upon receipt of the Planning and Zoning Commission's recommendation, the City Council shall either approve the commercial-industrial designed development procedure by approving an ordinance authorizing the use or deny the application. If the application is approved, the matter shall be returned to the Planning and Zoning Commission for consideration of a site development plan.
9. *Site development plans.* After passage by the City Council of an ordinance authorizing a commercial-industrial designed development procedure, a site development plan shall be submitted in accord with the following provisions. No building permits or authorization for improvement or development for any use authorized under provisions of this section shall be issued prior to approval of such plan.
  - (1) Planning and Zoning Commission review. Plans shall be submitted to the Planning and Zoning Commission for review and approval. These plans shall contain the minimum requirements established in the conditions of the specific ordinance governing the commercial-industrial designed development procedure.
  - (2) Recording. Within sixty (60) days of approval, the site development plan shall be recorded with the St. Louis County Recorder of Deeds, and thereby authorize development as depicted thereon.
10. *Procedure to amend the commercial-industrial designed development procedure ordinance or site development plan.* In order to amend provisions of an existing commercial-industrial designed development procedure ordinance or to amend the recorded site development plan approved for a commercial-industrial designed development, the procedure shall be as follows:
  - (1) To amend the commercial-industrial designed development ordinance:

- (a) The property owner or authorized representative shall submit a written request to amend ordinance conditions to the Director of Public Works for review. The Director of Public Works shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
  - (b) If the Director of Public Works determines that the requested amendment is consistent in purpose and content with the original proposal as advertised, the Director of Public Works shall so report to the Planning and Zoning Commission. The Planning and Zoning Commission shall review the request and the report of the Director of Public Works, and then forward a recommendation to the City Council. A recommendation of approval shall include conditions to be included in the amended ordinance.
  - (c) If the Director of Public Works determines that the requested amendment is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed ordinance amendment and forward a recommendation to the City Council. The Planning and Zoning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
- (2) To amend the recorded site development plan:
- (a) The property owner or authorized representative shall submit an amended site development plan to the Director of Public Works. The Director of Public Works shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing, and the preliminary development plan approved by the City Council.
  - (b) If the Director of Public Works determines that the proposed amendment to the site development plan is not in conflict with the original proposal as advertised and the approved preliminary development plan, and meets all conditions of the commercial-industrial designed development procedure ordinance, said plan shall be reviewed and approved by the Planning and Zoning Commission. The amended plan shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of the Planning and Zoning Commission approval.
  - (c) If the Director of Public Works determines that the proposed amendment to the site development plan is minor in nature and is not in conflict with the original proposal as advertised, and the preliminary development plan and meets all conditions of the commercial-industrial designed development procedure ordinance, the Director of Public Works may approve said amended plan. Said plan shall be retained on file by the Director of Public Works.

However, when conditions of a particular commercial-industrial designed development procedure ordinance are amended which necessitate an amended site development plan, the Planning and Zoning Commission shall review and approve said amended plans and they shall be recorded with the St. Louis County Recorder of Deeds within sixty (60) days of the Planning and Zoning Commission approval.

If the Director of Public Works determines that the amendment to the plan is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, or with the preliminary development plan approved by the City Council, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the proposed site plan amendment and make a final determination. The Planning and Zoning Commission may, if deemed necessary, forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.

- (e) The petitioner/developer may appeal to the Planning and Zoning Commission from a decision by the Director of Public Works, in cases where the Director of Public Works is authorized to review development plans. The petitioner shall have a thirty (30) day period in which to file a written appeal and plan with the Planning and Zoning Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the Director of Public Works. The Planning and Zoning Commission shall make the final determination of the matter. No exceptions will be granted that are in violation of the particular ordinance governing the development plan.

11. *Failure to commence construction.* Substantial construction shall commence within the time period specified in the conditions of the ordinance governing the commercial-industrial development procedure, unless such time period is extended by the Planning and Zoning Commission. If substantial construction or development does not begin within the time period specified in the conditions of the ordinance governing the use or extensions authorized therein, the Planning and Zoning Commission shall within sixty (60) days initiate a resolution of intent for the purpose of a new public hearing to terminate the commercial-industrial designed development procedure in accord with the proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance. No building or occupancy permit shall be issued for the development or use of the property until completion of action by the City Council on the proceedings to terminate the procedure in accord with the above noted section.
12. *Development of uses authorized by commercial-industrial designed development procedure and permitted land uses on same tract of land.* Nothing shall prevent the establishment of a use authorized by the commercial-industrial designed development procedure on the same tract of land with one (1) or more permitted land uses and developments or conditional land uses and developments specified in the regulations of the governing zoning district. However, the use authorized by the commercial-industrial designed development procedure shall abide by the conditions of the governing ordinance and the permitted land use and development shall adhere to the regulations of the governing zoning district. A permitted land use or development existing at the time of submittal of a site development plan for a use authorized by the commercial-industrial designed development procedure shall be shown on the plan. No permitted use or development shall at any time cause the violation of the conditions of the ordinance governing the commercial-industrial designed development procedure.

(Ord. No. 698, § 1, 11-21-00)

Sec. 320. - Landmark and Preservation Area (LPA).

1. *Definitions.* In addition to the definitions set forth in Section 030 of this Zoning Ordinance, the following definitions shall apply to this section:

*Exterior alteration:* Any construction, repair, addition to, or elimination of, one (1) or more of the exterior architectural features of an improvement.

- (2) *Design and construction standards:* A set or sets of guidelines and regulations, with illustrations where appropriate, which define(s) minimum standards for the alteration or construction of improvements with respect to the appearance of exterior architectural features, and which enumerate(s) particular features that are made subject to that standard.
  - (3) *Exterior architectural feature:* The site topography, landscaping, building setback or building line, and architectural arrangement of such portion of the exterior of any improvement as is open to public view from any street or highway, including, but not limited to, (1) the kind, color, and texture of the building material of such portion so open to view, (2) the type and design of all windows, doors, lights, signs, porches, walks, cornices, eaves and other fixtures appurtenant to such portion, (3) the location and treatment of any motor vehicle parking space appurtenant to such improvement and so open to view.
  - (4) *Improvement:* Any building, structure, parking facility, street, highway, walk, fence, landscaped area, gate, wall, work of art or other object, the use of which requires a location on a parcel of land and which constitutes a physical betterment of, attachment to, or alteration of real property, or any part of such betterment, attachment or alteration.
  - (5) *Landmark:* Any natural site or improvement (including any park, cemetery, street or right-of-way) that has a significant historical interest or value as part of the development, heritage or cultural characteristics of the City, state or nation, and has been designated as a landmark pursuant to the provisions of this use district.
  - (6) *Landmark and Preservation Area (LPA):* A parcel of land, or any part thereof, on which is situated a landmark and any abutting parcel or part thereof used as and constituting a part of the premises on which a designated landmark is situated, and which has been designated as a landmark area pursuant to the provisions of this use district.
  - (7) *Owner:* Any person, corporation or other entity having such right or title to or interest in any land or improvement so as to be legally entitled, upon obtaining permits required by this Code, to perform with respect to such land or improvement any construction, exterior or structural alteration, demolition or repair.
2. *Purpose and intent.* The purpose of this section is to promote the general welfare, heritage, education and economic benefit of the City, through the preservation, protection and regulation of buildings, sites, structures, monuments, and neighborhoods of historic, architectural, cultural or archeological significance. It is further the intent of this procedure to encourage the adaptation of these buildings, sites, structures, etc. for current use.
  3. In any zoning district, except "PS" Park and Scenic District, a single parcel or geographic area may be designated as a Landmark and Preservation Area thereby encouraging the preservation, enhancement, rehabilitation and perpetuation of the landmark building, structure or area. The Planning and Zoning Commission may recommend and the City Council, by ordinance, may approve designation for a specific parcel or area provided the area is characterized by one or more of the following criteria:
    - (1) has significant character, interest or value as part of the development, heritage or cultural characteristics of the City, State of Missouri, or the United States.
    - (2) is the site of a significant historic event.

is the work of a designer whose individual work has significantly influenced the development of the St. Louis region, State of Missouri or United States.

- (4) contains elements of design, detail, materials, or craftsmanship which represents a particular architectural style or significant innovation.
  - (5) owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of a neighborhood, community, or within the City.
4. *Additional permitted land uses and developments.* Designation as a Landmark and Preservation Area qualifies property for additional uses beyond those permitted or conditional uses in the zoning district in which the property is located. A designated Landmark and Preservation Area may contain such of the following additional uses as determined by the Planning and Zoning Commission and the City Council, provided that these uses shall not create an appreciable increase in land use intensity beyond what normally occurs in the applicable zoning district, nor substantially alter or affect the character of surrounding development:
- (1) Offices.
  - (2) Limited service and retail facilities, in which goods and services may be sold or provided directly to the public on the premises such as, but not limited to, studios or galleries for artwork or antiques; studios or work areas for artists, candymakers, dressmakers, tailors; music teachers; dance teachers; restaurants (excluding fast food restaurants). In no case shall any use involving the manufacture of products be permitted to occupy more than four thousand (4,000) square feet of gross floor area.
  - (3) Offices (as permitted in (1) above) with affiliated dwelling units, wherein occupancy of the dwelling unit shall be limited to the owner, manager, or employee of the office use and their respective families.
  - (4) Child care centers, nursery schools, day nurseries.
  - (5) Single-, two- and multiple-family dwellings.
5. All such additional uses shall conform to specific conditions established in the ordinance governing the particular Landmark and Preservation Area concerning, but not limited to, the following:
- (1) building appearance.
  - (2) number of employees or pupils.
  - (3) minimum and maximum square footage per use.
  - (4) open space requirements.
  - (5) signs (number, type, location).
  - (6) parking (number, location).
  - (7) ingress and egress.
  - (8) compliance with applicable federal, state and county requirements.
6. *Performance standards.* All uses established in a Landmark and Preservation Area shall operate in accord with standards contained in Section 210, "Zoning Performance Standards Regulations," of this Zoning Ordinance. These performance standards are minimum requirements and may be made more restrictive in the conditions of the ordinance governing the particular Landmark and Preservation Area.
7. *Height limitations for structures.* The total height of any structure shall be limited by the applicable zoning district regulations. The height limitations may be made more restrictive in the conditions of

8. *Lot area and yard requirements:*

- (1) Minimum lot area: The lot area for any use or new building in a Landmark and Preservation Area shall be governed by the regulations and the zoning district regulations in which the lot is located.
- (2) Minimum yard requirements: Setbacks for new parking areas and new structures shall be established in the conditions of the ordinance governing the particular Landmark and Preservation Area; however in no instance shall they be less restrictive than the requirements of the zoning district in which the property is located.

9. *Off-Street parking and loading requirements.* The minimum off-street parking and loading requirements for any use or building in a designated Landmark and Preservation Area shall not be reduced below that required for the same use in any other "C" Commercial, "R" Residential, "NU" Non-Urban zoning district as set forth in Section 220, "Off-Street Parking and Loading Requirements," of this Zoning Ordinance. These requirements may be made more restrictive in the conditions of the ordinance governing the particular Landmark and Preservation Area. Where determined necessary and where the Landmark and Preservation Area includes two (2) or more uses, the Planning and Zoning Commission may recommend and the City Council may approve a total reduction of not more than twenty (20) percent of the required off-street parking and loading spaces, where it has been demonstrated by study of the combined uses and customary operation of the uses that adequate parking would be provided.

10. *Sign regulations.* The number, type and location of all signs, display or advertising devices proposed and visible from the public right-of-way shall be subject to the sign regulations set forth in Chapter 17.5, "Signs," of this Code; however, these regulations may be made more restrictive in the conditions of the ordinance governing the particular Landmark and Preservation Area.

11. *Procedure; establishment of area.* In order to establish a Landmark and Preservation Area the procedure shall be as follows:

- (1) Application. A petition shall be filed with the City Council on forms prescribed for this purpose by the Planning and Zoning Commission. Said petition may be initiated by the City Council, Planning and Zoning Commission, the owner(s) of record or owners under contract of a lot or tract, or their authorized representatives, or by the owners of fifty (50) percent or more of the area (excluding streets and alleys) included within the proposed area.
  - (a) Thirteen (13) sets of forms shall be submitted to the City Clerk on petitions initiated by owner(s) of record or owners under contract, or their authorized representative, or by owners of fifty (50) percent or more of the area in a proposed area and are to be accompanied by the following:
    - (i) filing fee per requirements of Section 350, "Fees," of this Zoning Ordinance.
    - (ii) general location map, out boundary plat, and legal description of the property in question;
    - (iii) a statement documenting the historic, architectural, cultural, archaeological or aesthetic significance of the proposed lot or lots;
    - (iv) summary, description, example or outline of proposed conditions to be applied within the area, including but not limited to, design and construction standards for building facades, setbacks, height, scale, material, color and texture, trim, roof design and landscaping; standards for the design details for all fences, street furniture and signs.

a preliminary development plan indicating existing and proposed structures and uses of all properties within the proposed area including:

(A) existing and proposed contours at intervals of not more than five (5) feet referred to sea level datum.

(B) proposed ingress and egress to site, including adjacent streets.

(b) Petitions initiated by the City Council or Planning and Zoning Commission shall be accompanied by the following:

(i) A statement from the Planning and Zoning Commission documenting the historic, architectural, cultural, archaeological or aesthetic significance of the proposed lot or lots.

(ii) A survey of the property furnished by the Director of Public Works from information of record.

(iii) A letter of intent from the initiating party indicating the proposed uses.

(iv) Written permission of the owner(s) of record must be obtained prior to initiation of any petition.

(2) Public hearing:

(a) A public hearing on the petition shall be held by the Planning and Zoning Commission in the same manner and with the same public notice procedure as required in the procedure for amending the Zoning Ordinance, provided that a date for a public hearing shall be set within sixty (60) days of acceptance of the petition by the Director of Public Works. Additional time may be required to set a date for public hearing for petitions initiated by the City Council or the Planning and Zoning Commission.

(b) Upon acceptance of the petition, the Director of Public Works shall forward the application for Landmark and Preservation Area designation to the Historic Preservation Committee.

(3) Planning and Zoning Commission recommendation. No action shall be taken by the City Council with respect to the petition until it has received the recommendation of the Planning and Zoning Commission. Said recommendation shall address general planning considerations, including consistency with good planning practice, and compatibility with adjoining permitted developments and uses. All recommendations shall be made in consideration of plans or area studies, subdivision and zoning requirements, and projected public improvements applicable to the area affected by designation. A recommendation of approval shall be accompanied by conditions to be included in the ordinance establishing the Landmark and Preservation Area or approval of a site development plan in a Landmark and Preservation Area. Such conditions shall include but not be limited to the following:

(a) permitted uses, including maximum floor area;

(b) preservation and design standards for all new construction, alteration and repair;

(c) height limitations;

(d) review of exterior facade and design features or details by the Planning and Zoning Commission;

(e) minimum yard requirements;

(f) off-street parking and loading requirements;

(g) sign regulations;

(h) requirements for deed restrictions, as applicable.

*Procedure—Approval of site development plan.* After passage by the City Council of an ordinance establishing a Landmark and Preservation Area, a site development plan shall be submitted in accord with the following provisions. No building permits or authorization for improvement or development shall be issued prior to approval of such plans.

- (1) Plans for single-lot developments shall be submitted to the Director of Public Works to be reviewed for compliance with the zoning ordinances and then forwarded to the Planning and Zoning Commission for review. Said plans shall contain the minimum conditions of the specific ordinance governing the Landmark and Preservation Area, and further, shall comply with provisions of the City's Subdivision Ordinance and other applicable City ordinances. Single-lot development plans shall be recorded as outlined in subsection 16 below.
  - (2) If development in a designated Landmark and Preservation Area requires trust indentures and/or maintenance agreements, a copy of the Landmark and Preservation Area ordinance shall be recorded with said indentures or agreements.
  - (3) In the case of multiple-lot developments, a site development concept plan for the designated area shall be submitted to the Director of Public Works to be reviewed for compliance with this Zoning Ordinance and then forwarded to the Planning and Zoning Commission for review and approval. The concept plan shall be recorded as required by subsection 16 below. Detailed site development section plans shall be submitted to the Director of Public Works for review and approval by the Planning and Zoning Commission by individual building, lot, phase, or plat representing a portion of the site development concept plan. The detailed site development section plans shall be recorded as required in subsection 16 below.
13. *Procedure-Amendment of conditions or site development plan.* In order to amend conditions of an existing Landmark and Preservation Area or to amend the site development plan approved for the Landmark and Preservation Area, the procedure shall be as follows:
- (1) To amend the Landmark and Preservation Area ordinance:
    - (a) The property owner or authorized agent of the property so designated shall submit a written request to amend the ordinance and conditions to the City Clerk who shall forward the request to the Director of Public Works for review. The Director of Public Works shall evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing.
    - (b) If the Director of Public Works determines that the requested amendment is consistent in purpose and content with the nature of the original proposal as advertised, the Director of Public Works shall so report to the Planning and Zoning Commission. The Planning and Zoning Commission shall then review the request and the report of the Director of Public Works, then forward a recommendation to the City Council. A recommendation of approval shall include conditions to be included in the amended ordinance.
    - (c) If the Director of Public Works determines that the requested amendment is not inconsistent in purpose and content with the nature of the proposal as originally advertised for public hearing, the Director of Public Works shall so report to the applicant and the Planning and Zoning Commission. The Planning and Zoning Commission may forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
  - (2) To amend the site development plan approved for the Landmark and Preservation Area:

- (a) The property owner(s) or authorized representative shall submit an amended site development plan to the City Clerk who shall then forward them to the Director of Public Works for review. The Director of Public Works shall then evaluate the request for consistency in purpose and content with the nature of the proposal as originally advertised for public hearing, with the Planning and Zoning Commission's recommendation, and the preliminary development plan approved by the City Council.
  - (b) If the Director of Public Works determines that the proposed site plan amendment is not in conflict with the original proposal as advertised, and the approved preliminary development plan, and meets all conditions of the Landmark and Preservation Area ordinance, the Director of Public Works, upon receiving a written favorable recommendation from the Planning and Zoning Commission, may approve said amended plan. Said plan shall be recorded as required by subsection 16 below.
  - (c) If the Director of Public Works determines that the proposed site plan amendment is not consistent in purpose and content with the nature of the proposal as originally advertised for public hearing, or with the preliminary development plan approved by the City Council, the Director of Public Works shall so report to the applicant and to the Planning and Zoning Commission. The Planning and Zoning Commission may forward a resolution of intent to the City Council for the purpose of a new public hearing on the matter in accord with the proceedings specified in Section 360, "Procedure for Amending the Zoning Ordinance," of this Zoning Ordinance.
  - (d) Appeal to Planning and Zoning Commission of a decision by Director of Public Works in reviewing development plan. The petitioner/developer may appeal a decision by the Director of Public Works, in cases where the Director of Public Works is authorized to review development plans. The appeal is to be filed with the Planning and Zoning Commission. The written appeal, stating the reasons for the appeal, shall be submitted to the City Clerk who shall forward them to the Director of Public Works. The Planning and Zoning Commission shall make the final determination on the matter. No exceptions will be granted that are in violation of any city ordinance or the particular ordinance governing the development plan.
14. *Recording.* Within sixty (60) days of approval of the initial, conceptual, or amended site development plan, the plan shall be recorded with the St. Louis County Recorder of Deeds, and thereby authorize development as depicted thereon.
15. The permitted uses establish in the ordinance governing the particular Landmark and Preservation Area shall become effective upon recording of an instrument, approved by the Director of Public Works and the City Attorney. This recorded instrument shall constitute an affirmative covenant running with the land for a period of time specified in the ordinance. This covenant shall require the continuation of the preservation of the structure, site or area and prohibit the demolition of any structure without approval by the Planning and Zoning Commission and the City Council. The City Council may release the covenant upon receipt of a report from the Planning and Zoning Commission.

(Ord. No. 698, § 1, 11-21-00)

#### Sec. 330. - Appeal and Protest Procedure for Special Procedures.

1. *Scope of provisions.* This section contains the regulations governing the filing and review of an appeal or protest from a Planning and Zoning Commission decision or recommendation regarding a special

2. *Statement of intent.* The purpose of this section is to provide a formal method by which a petitioner may request further consideration by the City Council of a Planning and Zoning Commission denial or recommendation of denial of certain special procedures as specified herein; and to provide a formal method by which the owners of property located within a specified proximity to a petitioned tract of land may present to the City Council a petition and statement of their opposition to a Planning and Zoning Commission decision or recommendation of approval of certain special procedures as specified herein.
3. *Filing of appeal or protest.* The following regulations shall govern the filing of an appeal or protest:
  - (1) Appeal by petitioner to decision or recommendation of denial. Upon the denial or recommendation of denial by the Planning and Zoning Commission of an application for a special procedure as specified herein, the applicant may file an appeal with the City Council requesting a determination from that body. A notice of appeal shall be filed within ten (10) days after the Planning and Zoning Commission's report is received by the City Council at a regular meeting. Notice of appeal to the City Council shall be in writing and shall be filed in duplicate with the City Clerk, accompanied by a fee of two hundred dollars (\$200.00). The applicant shall have an additional thirty (30) days to file the actual appeal. The appeal shall specifically state how the application, as initially filed or subsequently modified, meets the criteria set forth in the regulations of the special procedure in question.
  - (2) Protest by nearby property owners to recommendation of approval. Owners of twenty-five (25) percent (by area) of the property within one hundred eighty-five (185) feet of the property in question may file a protest with the City Council against the Planning and Zoning Commission's decision or recommendation of approval of a special procedure as specified herein. A notice of protest shall be filed within ten (10) days after the Planning and Zoning Commission's report is received by the City Council at a regular meeting. Notice of protest shall be in writing and shall be filed in duplicate with the City Clerk, accompanied by the signatures of property owners in opposition. The notice of protest shall include notarized verification from the person(s) collecting protesters' signatures that all signatures are correct and real. The protesters shall have an additional thirty (30) days to file the actual protest. The protest shall specifically state how the application, as initially filed or subsequently modified, fails to meet the criteria set forth in the regulations of the special procedure in question.
4. *Review of appeal or protest.* The following regulations shall govern the review of an appeal or protest:
  - (1) Referral of appeal or protest to the Planning and Zoning Commission. Upon receipt of an appeal or a protest, the City Council shall refer it to the Planning and Zoning Commission. The Planning and Zoning Commission shall respond thereon to the City Council disclosing in what respect the application and facts offered in support thereof met or failed to meet the requirements specified in this section.
  - (2) Public hearing by the City Council. Before acting on any appeal or protest, the City Council shall set the matter for hearing. The City Council shall give written notice of such hearing to the applicant and all other persons who appeared and spoke in opposition to the application at the public hearing before the Planning and Zoning Commission or to the protesters in the case of a protest. The applicant and the protesters in the case of a protest shall be heard at the hearing. In addition, any other person or persons who, in the discretion of the City Council, will be aggrieved by any decision or action with respect to an appeal or protest may also be heard at the hearing.

City Council decision. Following the hearing by the City Council on an appealed or protested application, the City Council may affirm, reverse or modify, in whole or in part, any determination of the Planning and Zoning Commission. An affirmative vote of two-thirds of the members of the whole City Council shall be required to reverse or modify any determination of the Planning and Zoning Commission with respect to a conditional use permit granted in accordance with procedures established in Section 290 of this Zoning Ordinance. A valid protest petition shall have the effect of extending the time for introduction of a bill beyond the ninety (90) day period established in Section 360 of this Zoning Ordinance.

(Ord. No. 698, § 2, 11-21-00)

Sec. 340. - Administration, Enforcement and Permits.

1. *Scope of provisions.* This section contains the regulations pertaining to administration and enforcement of the provisions of this Zoning Ordinance, issuance of permits and certifications, inspection of property and issuance of stop-work and stop-use orders.
2. This ordinance shall be administered and enforced by the Director of Public Works, who:
  - (1) Shall appoint a Zoning Enforcement Officer who by authority of the Director of Public Works, shall enforce the provisions of this Zoning Ordinance by means of the duties delineated herein. In addition, the Zoning Enforcement Officer shall, by authority of the Director of Public Works, enforce all regulations and conditions governing development of planned environmental units, conditional use permits, commercial-industrial designed developments, Landmark and Preservation Areas, mixed use developments, and the "C-8" Planned Commercial District in accordance with plans approved by the Planning and Zoning Commission and the Director of Public Works pursuant to this Zoning Ordinance.
  - (2) May designate one (1) or more additional members of the Department, as well as members of other City departments who have a particular skill or competence, to act for the Director of Public Works or the Zoning Enforcement Officer, and the term "Director of Public Works" or "Zoning Enforcement Officer" as used elsewhere in this Zoning Ordinance shall be deemed to include such deputies.
  - (3) May determine the actual location of a boundary line between zoning districts, where such line does not coincide with a property line or district boundary line. Such determination shall be subject to appeal before the Board of Zoning Adjustment in accordance with Section 400.3 of this Zoning Ordinance.
  - (4) Shall approve building permits. Such approval shall be by approval of the plot plan required by the City Building Code, except as otherwise provided by this Zoning Ordinance.
  - (5) Shall approve occupancy or other appropriate permits.
  - (6) May cause the cessation of any erection, construction, reconstruction, alteration, conversion, maintenance or use in violation of this Zoning Ordinance by issuing a stop-work or stop-use order.
  - (7) May refer any violation of this Zoning Ordinance to the Prosecuting Attorney for prosecution or other appropriate action when deemed necessary.
  - (8) May adopt such administrative policies as he deems necessary to the carrying out of his enforcement responsibilities, which policies shall have general applicability to cases of similar character.

Certify whether any lot or parcel of land in the City lies within or outside of the "FP" Floodplain District, and shall collect a fee for the issuance of said certification as provided in this Zoning Ordinance.

3. Permits, orders and certifications:

- (a) Building permits. No building permit shall be issued for the erection, reconstruction or alteration of any structure, or part thereof, nor shall any such work be started until approved by the Director of Public Works or his authorized representative. No building permit shall be issued for any building unless such building is in conformity with the provisions of this Zoning Ordinance.
- (b) Occupancy permits. No building or structure or part thereof shall hereafter be constructed or altered until issuance of a proper permit. No new use, extension or alteration of an existing use, or conversion from one use to another, shall be allowed in any building, structure or land or part thereof until issuance of a proper permit; except that no permit shall be required for the raising of agricultural crops, orchards or forestry. No occupancy permit shall be issued for any use or change in use unless such use or change in use is in conformity with the provisions of this Zoning Ordinance.
- (c) Stop-work orders. The cessation of any erection, construction, reconstruction, alteration, conversion, maintenance or use in violation of this Zoning Ordinance may be effected by posting a stop-work or stop-use notice on the premises or by notice in writing to the owner of the property involved or to his agents or to the person doing the work, in the case of a stop-work order, stating the nature of the violation.
- (d) Floodplain certification fees. Applications for floodplain certification shall be upon the form designated by the Director of Public Works, and shall include the locator number of the parcel of land for which certification is sought. The Director of Public Works shall collect a fee for the issuance of certification of each lot or parcel of ground, which fee shall be established by an ordinance of the City Council.

4. *Entry and inspection of land and buildings:*

- (a) The Planning and Zoning Commission or its authorized representatives and the authorized personnel of the Department of Public Works are hereby empowered in the performances of their functions, to enter upon any land in the City for the purpose of making inspections, examinations and surveys, or to place and maintain thereon monuments, markers, notices, signs, or placards, required to effectuate the purpose and provisions of this Zoning Ordinance. The above authorized persons shall be required to present proper credentials upon demand when entering upon any land or structure for the purpose of this section.
- (b) The Zoning Enforcement Officer is authorized to inspect or cause to be inspected any building or other structure or any land on which work is in progress and report to the Director of Public Works any suggested stoppage of work.

5. Police assistance in posting stop-work and stop-use orders. The Department of Police shall aid in enforcing the Zoning Ordinance by posting stop-work or stop-use notices, when requested by the Director of Public Works.

Sec. 350. - Fees.

- 1. In the administration of the provisions of this Zoning Ordinance, the Director of Public Works shall collect fees at the time of the filing of a petition or an application, which fees shall be established by ordinance, for the following various procedures:

A petition for change of zoning district boundaries, district classification, conditional use permit, or landmark and preservation area procedure.

- (b) An application for a mixed use development, planned environment unit permit or commercial-industrial designed development permit.
  - (c) Readvertisement for a previously postponed petition for a change of zoning district boundaries, district classification, or special procedures.
2. The fees to be charged for the various procedures in this Zoning Ordinance are not refundable, except where a petition or application is withdrawn prior to advertising or posting of public hearing notices for the petition, and then only by order of the City Council.

Sec. 360. - Procedure for Amending the Zoning Ordinance.

1. *Scope of provisions.* This section contains procedures for amending this Zoning Ordinance, zoning district boundaries or classification of property. Included are regulations for the filing of petitions, required public hearing notices, and powers of the Planning and Zoning Commission and the City Council in revising requested changes.
2. *Changes.* Whenever the public necessity, convenience, general welfare and good zoning practice require, the City Council may, after a public hearing and report thereon by the Planning and Zoning Commission and subject to the procedure provided in this section, amend, supplement, or change the regulations, zoning district boundaries or classification of property now or hereafter established by this Zoning Ordinance. The Planning and Zoning Commission may hold a public hearing on a petition for a change of zoning to an "R" Residence District, and a petition for a planned environment unit permit at the same public hearing and on the same parcel of land, and make recommendations thereon. The Planning and Zoning Commission may hold a public hearing on a petition for a change of zoning and a petition for a conditional use permit or a commercial-industrial designed development, at the same public hearing and on the same parcel of land, and make recommendations thereon. Amendment, supplement, reclassification or change may be initiated by a resolution of intention by the Planning and Zoning Commission or the City Council, or by a verified application of one (1) or more of the owners or authorized representatives of the owners of property within the area proposed to be changed. If an application for the amendment, supplement, or change of any property is denied, no subsequent application requesting the same classification or conditional use permit of or with reference to the same property or part thereof shall be filed with the Director of Public Works within twelve (12) months from the date of the receipt and filing by the City Council of the Planning and Zoning Commission's report on the application. If a bill granting or denying the application is not introduced in the City Council within ninety (90) days after a report thereon by the Planning and Zoning Commission is received by the City Council at a regular meeting, it shall be deemed denied unless extended by resolution of the City Council during the ninety (90) day period. No ordinance relating to zoning or special procedure which is contrary to a recommendation of a majority of the members of the Planning and Zoning Commission shall be adopted by the City Council, except by an affirmative vote of two-thirds of the members of the City Council. No provision herein shall be construed to prevent the City Council from initiating the procedure provided in this section by a resolution of intention at any time.
3. *Petition for change of zoning.*
  - (1) Petitions for any change of zoning district boundaries or any reclassification of districts, as shown on the zoning district maps, shall be addressed to the City Council and filed with the Director of Public Works in the Office of the Department of Public Works upon forms prescribed for that

purpose by the Planning and Zoning Commission and accompanied by such data and information so as to assure the fullest practicable presentation of facts. At the time the petition is filed, the fees established by this ordinance shall be paid to the City.

- (2) Each such petition, other than those initiated by the Planning and Zoning Commission or the City Council, shall be verified by at least one (1) of the owners or authorized representatives of the owners of property within the area proposed to be changed, attesting to the truth and correctness of all facts and information presented therein.
  - (3) The Director of Public Works shall, within thirty (30) calendar days of receipt of any petition for rezoning or special procedure permit accompanied by the appropriate filing fees, notify in writing all parties of interest as named in the petition, including the project engineer, architect and developer, as applicable, either that the petition is certified as meeting all pertinent requirements and will be scheduled for hearing by a specified date or specifically in what manner the petition does not comply with minimum petition submission requirements. If the Director of Public Works does not respond in writing within thirty (30) days, the petition shall be deemed accepted and shall be scheduled for public hearing within the period established by the applicable provisions of this Zoning Ordinance. If the petition has been determined not to comply with minimum petition requirements, the parties so notified shall be required to submit additional information or otherwise correct any noted deficiencies within thirty (30) days from receipt of the Director of Public Work's letter. If the deficiencies are not corrected within the fifteen (15) day period, the Director of Public Works shall return the petition to the petitioner and recommend to the City Council that the filing fees be refunded.
4. *Hearing date-Notice-Posting of notice.* Upon filing with the Director of Public Works a petition to amend, supplement or change the regulations, zoning district boundaries or classification of property now or hereafter established, or upon initiation of a resolution of intention by the Planning and Zoning Commission or the City Council, a public hearing shall be set before the Planning and Zoning Commission within sixty (60) days. The Director of Public Works shall:
- (1) Cause public notice of hearing to be given as follows: publication at least once in some daily, triweekly, semiweekly, or weekly newspaper of general circulation in the City which shall have been published regularly and consecutively for a period of three (3) years. Publication shall commence not more than thirty (30) nor less than fifteen (15) days before the hearing date. Every affidavit of proof of publication shall state that said publication and the newspaper in which notice was published has met the requirements of the foregoing provisions and those of RSMo Chapter 493, as amended, governing legal publications, notice and advertisement. Notice shall contain, in addition to the legal description of the parcel of land, the approximate street location or address, when possible, the name of the person seeking the zoning change, and the present zoning district classification and the zoning district classification sought.
  - (2) Cause a copy of the notice as it appears in the newspaper to be posted on each parcel of land on which an application for a zoning district change or a special procedure permit has been filed with the Planning and Zoning Commission. Said notice shall be placed on such land not more than thirty (30) days or less than fifteen (15) days prior to the public hearing to be held by the Planning and Zoning Commission, and shall be posted in a conspicuous place upon said land at a point nearest to the right-of-way of any street or roadway abutting such land.
5. *Penalty for removal or defacement of signs.* Any person or persons, firm, association, or corporation, who shall remove, mar, scratch, obliterate or in any manner deface, hide from view or tamper with

be punished as provided for in Section 370 of this Zoning Ordinance.

6. *Notice required.* Amendments to the Zoning Ordinance that are of a general nature, and not pertaining to a specific property as in the case of a change in the boundaries of a zoning district, shall require publication of notice at least once in some daily, triweekly, semiweekly, or weekly newspaper of general circulation in the City which shall have been admitted to the post office as second class matter and shall have been published regularly and consecutively for a period of three (3) years. Publication shall commence not more than thirty (30) nor less than fifteen (15) days before the hearing date. Every affidavit of proof of publication shall state that said publication and the newspaper in which notice was published has met the requirements of the foregoing provisions and those of RSMo Chapter 493, as amended, governing legal publications, notice and advertisement. Public notice for such general amendments shall not require posting of any signs. It shall not be necessary to publish notice or hold public hearings on amendments to this Zoning Ordinance pertaining to procedural matters and to the duties and powers of officials, officers, boards, commissions, and bureaus in carrying out the regulations of this Zoning Ordinance.
7. *Additional notice.* The Director of Public Works shall, not less than twenty (20) days before the date of hearing before the Planning and Zoning Commission of a petition for a change in zoning district boundaries, conditional use permit, special procedure, or any other matter pertaining to specific property for which a public hearing is required by this Zoning Ordinance, furnish a copy of the notice of a proposed zoning change to all triweekly, semiweekly or weekly newspapers printed, circulated or distributed within the City Council district wherein the property proposed to be rezoned is located. Not less than eighteen (18) days before the date of hearing before the Planning and Zoning Commission, the Director of Public Works shall furnish a copy of the hearing notice to the St. Louis County Department of Highways and Traffic, City Park and Recreation Board, the Missouri State Highway Commission and the Metropolitan St. Louis Sewer District. Each Commission/Board/Department so notified may provide its written comments to the Director of Public Works not less than twelve (12) days prior to the public hearing.
8. *Report by Director of Public Works.* The Director of Public Works shall submit a written or oral report to the Planning and Zoning Commission prior to the forwarding of a decision or recommendation by the Planning and Zoning Commission to the City Council.
9. *Approval of rezoning portion of property.* The Planning and Zoning Commission may recommend that a petition for a change of zoning district classification be approved or denied for all or part of the property described in the petition. The City Council may enact by ordinance such a partial granting of a petition for a change in zoning district classification.
10. *Approval of different classification.* The Planning and Zoning Commission may recommend and the City Council may enact by ordinance a zoning district classification other than that requested in the petition, provided that the recommendation or ordinance is for a district classification of the same use type as that requested by the petitioner. District classification of the same type as referred to in this section shall include the "C-8" Planned Commercial District when a petitioner proposed a particular use and presents plans at or prior to the public hearing which are substantially similar to those required by the "C-8" rezoning procedures respectively.
11. *Withdrawal.* Any request for withdrawal of a legally filed application for amendment or supplement to the St. Louis County Zoning Ordinance may be denied, approved with prejudice, or approved without prejudice by the Planning and Zoning Commission.

Sec. 370. - Penalties for Violation of Zoning Ordinance.

1. Any person, persons, firm, association or corporation violating any provision of the Zoning Ordinance or any employee, assistant, agent, or any other person participating or taking part in, joining or aiding in a violation of any provision of the Zoning Ordinance may be prosecuted as provided by law for the violation of ordinances of the City and upon conviction shall be punished by a fine not exceeding five hundred dollars (\$500.00) for any one (1) offense or imprisonment for not more than six (6) months, or both such fine and imprisonment. Each day a violation continues after service of written notice to abate such violation shall constitute a separate offense.
2. The notice required in subsection 1 above shall be satisfied by any of the following: If a copy thereof is delivered to such person or persons personally; or the notice is left at the usual place of abode; or mailed by regular or certified or registered mail addressed to such person or persons at their last known addresses; or, if the regular or certified or registered letter is returned undelivered, by posting a copy thereof in a conspicuous place in or about the premises affected by such notice.
3. In addition to the penalties hereinabove authorized and established, the Prosecuting Attorney shall take such other actions at law or in equity as may be required to halt, terminate, remove, or otherwise eliminate any violations of this Zoning Ordinance.

Sec. 400. - Board of Adjustment.

1. General.

- (a) Appointment and Membership. A Board of Adjustment is hereby established. The word "Board" when used in this section shall be construed to mean the Board of Adjustment. The Board shall consist of five (5) members who shall be residents of the City of Black Jack appointed by the Mayor and approved by the City Council. The term of office of the members of the Board of Adjustment shall be for five (5) years, excepting that the five (5) members first appointed shall serve respectively for terms of one (1) year, two (2) years, three (3) years, four (4) years, and five (5) years each. Vacancies shall be filled for the unexpired term only. Members may be removed for cause by the Mayor and City Council upon written charges and after a public hearing.
- (b) Board shall Elect Chairman. The Board shall elect its own chairman, vice-chairman, and secretary who shall serve for one (1) year or until their successor has been elected.
- (c) Board shall Adopt Rules and Regulations. The Board shall adopt from time to time such rules and regulations as it may deem necessary to carry into effect the provisions of this Ordinance, which are not inconsistent with the provisions of this Ordinance.
- (d) Meetings. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be public records.

2. *Appeals to the Board.*

- (a) Appeals to the Board may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decision of the Director of Public Works or said Director's duly authorized designee. Such appeal shall be taken within a reasonable time, as shall be prescribed by the Board by general rule, by filing with the City Clerk and with the Board a notice

- (b) A fee set by the City Council shall be paid to the City Clerk at the time the notice of appeal is filed, which the City Clerk shall forthwith pay over to the City Treasurer to the credit of the general revenue fund of the City.
  - (c) Appeals shall be submitted upon forms available in the office of the City Clerk and shall show the minimum information as presented on forms. It shall be the responsibility of the appellant to furnish such maps, data, and information as may be prescribed for that purpose by the Board of Adjustment so as to assure fullest practicable presentation of facts for the permanent record.
  - (d) The Director of Public Works or said Director's duly authorized designee shall forthwith transmit to the Board all of the papers constituting the record upon which the action appealed is taken. The Director of Public Works shall also furnish technical service, advice or factual evidence, as requested by the Board.
  - (e) An appeal stays all proceedings in furtherance of the action appealed from, unless the Director of Public Works or said Director's duly authorized designee certifies to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by an order granted by the Board or by restraining order by a Court of Record with notice to the Director of Public Works or his duly authorized designee and on due cause shown.
3. *Jurisdiction of Board.* The Board of Adjustment shall have the following powers and duties:
- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Director of Public Works or said Director's duly authorized designee in the enforcement of this ordinance or other related ordinances passed or enacted by the City Council.
  - (b) To hear and decide all matters referred to it or upon which it is required to pass under the provisions of this Ordinance and Chapter 89, Revised Statutes of the State of Missouri.
  - (c) Interpret the provisions of this Zoning Ordinance in such a way as to carry out the intent and purpose of the plan as shown upon the map fixing the several districts accompanying and made a part of this Zoning Ordinance where the street layout actually on the ground varies from the street layout as shown on the map aforesaid.
  - (d) Permit the reconstruction of a nonconforming building which has been damaged by explosion, fire, act of God, or public enemy to the extent of more than fifty (50) percent of its reasonable value where the Board finds some compelling public necessity requiring a continuance of the nonconforming use and the primary purpose of continuing the non-conforming use is not to continue a monopoly.
  - (e) Permit a variation in the yard requirements of any zoning district or the building or setback lines for major highways as provided by law where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to an irregular shape of the lot, topographical or other conditions, provided such variance will not seriously affect any adjoining property or the general welfare. Variations from front yard setback requirements for signs in any zoning district and side and rear yard setback requirements for signs where the adjoining affected properties are zoned "C" Commercial shall also be permitted in accord with the above criteria.
  - (f)

Permit a variation in the sign requirements established by the sign regulations set forth in Chapter 17.5, "Signs," of this Code for business signs only of up to one hundred (100) percent increase in sign area and up to fifty (50) percent increase in height and width where petitioner files a plot plan and scaled layout design in duplicate and demonstrates that otherwise there would be a hardship to the public seeking his particular commodity or service and where petitioner demonstrates that the increased sign area, height, and width would not be injurious to the neighborhood or otherwise detrimental to the public welfare. When a petition for a variance to the sign requirements has been filed with the Board of Adjustment said Board shall refer the matter to the Director of Public Works for a review and report thereon containing conditions which the Director recommends that the Board place upon the sign variance if granted. In making its decision the Board must be satisfied that the granting of such variance will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty which is unique to petitioner in his use so great as to warrant a variation from the sign regulations as established by this Zoning Ordinance and at the same time place conditions upon said variance, if necessary, so that the surrounding property will be properly protected.

- (g) Permit a variation in the sign requirement established by the sign regulations set forth in Chapter 17.5, "Signs," of this Code of business signs used in connection with places of public assembly having a seating capacity of at least two hundred (200) persons. Said variation shall not exceed four (4) times the area allowed by the applicable zoning ordinance pertaining to sign size nor two (2) times the height allowed by the applicable zoning ordinance pertaining to sign height. Not more than fifty (50) percent of the sign area allowed by said variation shall contain the name of the place of public assembly. If more than one sign is erected, the area between said signs shall not be included for purposes of computing sign size or sign height. In order to obtain a variance under this section, the petitioner shall file a plat plan and scaled layout design in duplicate with the Board of Adjustment. The petition shall show that without said variance, there would exist a hardship to the public seeking petitioner's particular commodity or service. The petitioner shall also show that the increased sign size or height would not be injurious to the neighborhood or otherwise detrimental to the public welfare. When a petition for a variance to the sign requirements has been filed with Board of Adjustment, said Board shall refer the matter to the Director of Public Works for a review and report thereon. Said report shall contain conditions which the Director recommends that the Board place upon the sign variance if the granting of such a variance will not merely serve as a convenience to the applicant, but will eliminate some demonstrable and unusual hardship or difficulty which is unique to petitioner in his use so great as to warrant a variance from the sign regulations as established by this Zoning Ordinance. Said report shall also place conditions upon said variance if necessary so that the surrounding property will be properly protected.

For the purposes of this section only, the phrase "place of public assembly" shall be deemed to mean theaters, motion picture houses, sport arenas or stadiums, public meeting rooms, exhibition halls and similar establishments.

- (h) To permit the extension of a district where the boundary line of a district divides a lot in a single ownership at the time of the passage of this Zoning Ordinance.
- (i) To permit a temporary building for use incidental to residential construction in a subdivision where many buildings are erected by one developer, subject to adequate conditions and requirements for protecting the public safety, health and general welfare. such permit to be

limited to a period of six (6) months subject to renewal after reapplication.

- (j) To vary the parking regulations of this Zoning Ordinance whenever the character or use of the building is such as to make unnecessary the full provision for parking facilities or where such regulations would impose an unreasonable hardship upon the use of the lot, as contrasted with merely granting an advantage or a convenience.
  - (k) Authorize upon appeal whenever a property owner can show that a strict application of the terms of this Zoning Ordinance, relating to the use, construction or alteration of buildings or structures or the use of land, will impose upon him practical difficulties or particular hardships; such variations of the strict application of the terms of this Zoning Ordinance are in harmony with its general intent and purpose but only when the Board is satisfied that the granting of such variation will not merely serve as a convenience to the applicant but will alleviate some demonstrable and unusual hardship or difficulty so great as to warrant a variation from the comprehensive plan as established by this Zoning Ordinance, and at the same time the surrounding property will be properly protected.
  - (l) The Board may in conformity with this Zoning Ordinance reverse, affirm or modify wholly or in part any decision upon which an appeal is made.
  - (m) The Board may engage the services of technical experts as may be required in order to render decisions on specific appeals in cases where the Board may require such technical expertise.
4. *Hearing Procedure.*—The following procedures shall govern the hearings of the Board:
- (a) Before making its decision on any appeal or other matter within the Board's purview, the Board shall hold a public hearing thereon. At least ten (10) days notice of the time and place of such hearing shall be sent by mail to the appellant. The Board may, in its discretion, send notices of hearing to other interested persons, organizations, or agencies. Such notice shall contain the name of the appellant, the date, time, and place fixed for the hearing; and a brief statement of the error alleged by the appellant or of the variance or other question which is the subject of appeal.
  - (b) The Board shall require additional notice of hearing by one advertisement in a newspaper of general circulation in the City, such advertisement shall appear not less than five (5) days prior to the date of public hearing and shall contain the same information as is required in written notices.
  - (c) Hearings may be adjourned, from time to time, and if the time and place of the continued hearing be publicly announced at the time of the adjournment, no further notice of such continued hearing shall be required; otherwise, notice thereof shall be given as in the case of the original hearing.
5. *Matters to be Considered by Board when Passing on Appeals.* When considering all appeals and all proposed variations to this Ordinance, the Board shall, before making any finding in a specific case, first determine that the proposed variation will not constitute any change in the District Map and will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets, or increase the public danger of fire and safety, or diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the City. Every variation granted or denied by the Board shall be accompanied by a written finding of the fact, based on sworn testimony and evidence, specifying the reason for granting or denying.

- (a) In exercising the aforementioned powers, the Board may, in conformity with the provisions of the law, reverse or affirm, wholly or partly, or may modify the order, requirement, decisions, or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the Director of Public Works or his duly appointed designee.
- (b) Nothing contained in these regulations shall be deemed to authorize the Board to reverse or modify any refusal of a permit or any other order, requirement, decision or determination which conforms to the provisions of this Zoning Ordinance and which, therefore, is not erroneous; nor to authorize the Board to validate, ratify or legalize any violation of law or any of the regulations of this Zoning Ordinance.
- (c) The Board shall not amend any of these regulations or the Zoning Map, nor shall such power of authority be vested in the Board.
- (d) A decision of the Board permitting the erection or alteration of a building shall be valid for a period for six (6) months, unless a building permit for such erection or alteration is obtained within this period and the erection or alteration is started and proceeds to completion in accordance with the terms of the decision. No decision of the Board permitting the use of a building or land shall be valid for a period longer than six (6) months, unless such use is established within said period; except that, where such use is dependent upon the erection or alteration of a building, such order shall continue in force and effect if a building permit for such erection or alteration is obtained within said period, and such erection or alteration is started and proceeds to completion in accordance with the terms of the decision.

7. *Appeal to Circuit Court.*

- (a) Any person or persons jointly or severally aggrieved by any decision of the Board of Adjustment may present to the Circuit Court in St. Louis County, Missouri, a petition duly verified setting forth that such decision is illegal, in whole or in part, and specifying the grounds of its illegality. Such petition shall be presented to the Court within thirty (30) days after the filing of the decisions in the office of the Board.
- (b) Upon presentation of such petition the Court may allow a writ of certiorari directed to the Board to review such decision of the Board and shall prescribe therein the time within which a return thereto must be made and served upon the appellant's attorney, which shall be not less than ten (10) days and may be extended by the Court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, upon application, notice to the Board, and due cause shown, grant a restraining order.
- (c) The Board shall not be required to return the original papers acted upon by it, but it shall be sufficient to return the certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (d) If upon the hearing, it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence, as it may direct, and report the same to the Court with its findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence or in bad faith or with malice in making the decision appealed from.

Sec. 410. - Duties of Administrative Officials, Board of Adjustment, City Council and Courts on Matters of Appeal.

It is the intent of this Ordinance that all questions of interpretation and enforcement shall be first presented to the administrative official, and that such questions shall be presented to the Board of Adjustment only on appeal from the decision of the administrative official, and that recourse from the decisions of the Board of Adjustment shall be to the courts as provided by law and particularly by Chapter 89 of the Revised Statutes of the State of Missouri.

It is further the intent of this Ordinance that the duties of the City Council in connection with this Ordinance shall not include hearing and deciding questions of interpretation and enforcement that may arise. The procedure for deciding such questions shall be as stated in this section and this Zoning Ordinance. Under this Zoning Ordinance, the City Council shall have only the duty of initiating, considering and adopting or rejecting proposed amendments or the repeal of this Zoning Ordinance, as provided by law.

Sec. 420. - Repeal of Conflicting Ordinances.

1. All ordinances and parts of ordinances relating to zoning and planning previously adopted by the City Council including special procedure ordinances which are inconsistent with any provision of this ordinance, are repealed to the extent of such inconsistency. An ordinance or part of an ordinance shall be deemed inconsistent with this ordinance if it establishes a regulation or authorization which is inconsistent with a regulation or authorization under the new provisions of this Zoning Ordinance.
2. City Ordinance No. 282, as amended, is hereby repealed, except for the "City of Black Jack Zoning Map" (see Section 040), and provided, however, that the prosecution, fine, or penalty for the violation of any provision of or amendment to any zoning order or ordinance shall not be abated by the enactment of this Zoning Ordinance.

#### CODE COMPARATIVE TABLE

This is a numerical listing of the ordinances of the city used in this Code. Repealed or superseded laws and any omitted materials are not reflected in this table.

Ordinance Number	Adoption Date	Section	Section this Code
3	8-7-70	1	<u>2-73</u>
		3—6	<u>2-73</u>
4	8-11-70	3	<u>10-61</u>
		7	<u>10-61</u>
5	8-11-70	2	<u>10-41</u>
		5	<u>10-42</u>

		6	<u>10-43</u>
9	10-12-70	1	<u>2-106</u>
		2	<u>2-107</u>
		4	<u>2-108</u>
		5	<u>2-109</u>
10	10-12-70	1	<u>2-108</u>
<u>11</u>	10-17-70	Rule 1	<u>2-32, 2-33</u>
		Rule 2	<u>2-34</u>
		Rule 2	<u>2-34</u>
		Rule 5	<u>2-36</u>
		Rule 7	<u>2-37</u>
		Rule 8	<u>2-31</u>
		Rule 9	<u>2-38</u>
<u>13</u>	10-20-70		App. B
23	2-2-71	1	App. B, <u>§ 130</u>
29	5-4-71	1	<u>13-1</u>
		3	<u>13-1</u>
37	6-1-71	1	<u>2-86</u>
		2	<u>2-87</u>
		3	<u>2-88</u>
45	8-3-71	1	<u>2-51</u>
50	9-7-71	1—4	<u>11-81</u>
52	9-20-71	1—3	<u>13-22</u>

		4	<u>13-23</u>
		5	<u>13-24</u>
		6	<u>13-25</u>
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		6	<u>2-177(g)</u>
601	8-20-96	1, 2	<u>12-35B</u>
605	2-18-97	1	<u>2-130</u>
606	2-18-97	1	<u>18-3(a)</u>
		2, 3	<u>18-28(6), (9)</u>
607	3-18-97	1	<u>11-46</u>
608	3-18-97	1 Rpld	App. C, §§ 1—14
		Added	App. C, §§ <u>010</u> —420
611	3-18-97	1	<u>2-220—2-222</u>
612	3-18-97		<u>20-285</u>
613	4-15-97	1 Rpld	<u>17.5-1—17.5-11</u>
		Added	<u>17.5-1—17.5-16</u>
613	5-20-97	1 Added	<u>11-27</u>
615	5-20-97	1	1-99
617	7- 1-97	1	<u>13-22(a)</u>
		2	<u>13-25</u>
		3, 4	<u>13-27(a)(c)</u>
<u>620</u>	8- 5-97		<u>2-118(4),</u> <u>2-122, 2-123</u>
		Rpld	<u>2-121</u>
624	8-19-97		App. A

626	10- 7-97	1	<u>2-119</u>
627	<u>12</u> - 2-97	1, 2	<u>10-1</u>
631	3- 3-98	1	<u>20-489</u>
632	3- 3-98	1	<u>17.5-12(3)g.3.</u>
633	4- 7-98	1 Added	<u>12-39</u>
634	6-16-98	1 Added	<u>2-1(5)</u>
		2—4	<u>6-1(c)(1)a., c., (2)a.</u>
		5, 6	<u>6-16</u>
		7	<u>6-17</u>
		8	<u>6-18</u>
		9	<u>6-20</u>
		10	<u>6-21</u>
		<u>11</u> Added	<u>6-22</u>
		<u>12</u>	<u>6-36</u>
		<u>13—18</u>	<u>6-37</u>
		<u>19—21</u>	<u>6-39—6-41</u>
		22 Added	<u>6-42</u>
		23—25	<u>6-56—6-58</u>
		26—28 Added	<u>6-62—6-64</u>
		29	<u>6-82(1)</u>
		30 Dlt'd	<u>6-83</u>
		31 Added	<u>6-92—6-94</u>

		35	<u>6-145</u>
		36	<u>6-146</u>
		37 Added	<u>6-147</u>
		38	<u>6-151</u>
		39	<u>6-169(a)</u>
		40	<u>6-175.2</u>
		41 Added	<u>6-175.6</u>
		42 Added	<u>6-175.7</u>
		43 Dlt'd	<u>6-176</u> —6-188
		Added	<u>6-176</u> —6-181
		44—46	<u>8-16</u> —8-18
		47 Added	<u>8-19</u>
		48	<u>9-1</u>
637	9-15-98	1, 2	<u>17.5-3</u>
		3, 4	<u>17.5-7</u>
		5, 6	<u>17.5-8</u>
		7	<u>17.5-12(3)g.1.,(4)a.,</u> (7)
639	10- 6-98	1	<u>20-71</u> —20-74
		2 Dlt'd	<u>20-487</u>
641	10-20-98	1 Added	<u>11-54</u>
642	11-17-98	1	<u>2-128</u>
643	11-17-98	1	<u>6-102(a)</u>

644	11-17-98	1	<u>6-102(c)</u>
645	11-17-98		App. A
646	11-17-98	1 Added	2-91
648	12-15-98	1	<u>6-76(a)</u>
651	3-16-99		App. A
653	4-20-99	1	<u>2-123</u>
654	5- 4-99	1 Rpld	<u>11-42, 11-52</u>
		2—4 Added	<u>11-42—11-42.2</u>
657	7-20-99	1—3	<u>12-35B</u>
659	8- 3-99	1 Dltd	<u>6-18(118.5, 118.5.1, 118.5.2), 6-102</u>
		2 Added	<u>6-18(118.1.1—118.1.8)</u>
		4, 5	<u>6-101(a)</u>
<u>660</u>	8-17-99	1—4	2-211—2-214
662	10- 5-99	1 Dltd	<u>14-38(b)</u>
663	10- 5-99	1	<u>2-17(c)(2)</u>
		2, 3	2-52
		4	<u>2-53(f)</u>
		5, 6	<u>2-54(c), (d)</u>
		7, 8	2-212(a), (b)
664	11-16-99	1 Added	<u>20-172</u>
665	11-16-99	1	<u>11-84</u>

669	<u>12</u> - 7-99	1	<u>4-26</u>
670	12-21-99	1 Added	<u>2-230</u> —2-233
673	2-15-00	1 Added	<u>12-7(b)(1)</u>
674	2-15-00	1	<u>2-130</u>
675	2-15-00	1	<u>2-123</u>
677	3-21-00	1	<u>14-45(7)</u>
678	4- 4-00	1 Added	<u>11-100</u>
679	4- 4-00	1 Added	<u>20-443</u>
684	6- 6-00	1(1)—(13) Added	<u>25-21</u> —25-33
685	6- 6-00	1	<u>13-25</u>
		2, 3	<u>13-27(a), (c)</u>
686	6-20-00	1	<u>11-100</u>
691	8- 1-00	1	<u>2-1</u>
692	8- 1-00	1	<u>6-1(c)(1)d., e.</u>
		2	<u>6-18(118.1.6(a)(2))</u>
694	9- 5-00	1	App. B, <u>§ 060</u>
698	11-21-00	1	App. C, §§ 300, 310, 320
		2	App. C, <u>§ 330</u>
<u>700</u>	12-19-00	1 Added	<u>10-140</u> —10-148
701	1-16-01	1	<u>7-16</u> —7-53
703	2- 6-01	1	<u>13-1</u>
		2	<u>13-25</u>
706	2-20-01	1	<u>20-481</u>

707	2-20-01	1 Added	<u>2-75</u>
708	3- 6-01	1 Rtld	<u>Ch. 10</u> , Art. V
		2	<u>10-72</u>
		3	<u>10-73</u>
		4	<u>10-76</u>
		5	<u>10-77</u>
711	4- 3-01	1	<u>2-75</u>
713	6- 5-01	1	<u>11-42</u>
		2 Added	<u>11-52</u>
716	7-17-01	1	<u>2-1</u> (6)
718	6-17-01	1 Added	<u>10-160</u> —10-178
<u>720</u>	8-21-01	1	<u>6-19</u>
		2	<u>6-38</u>
		3	<u>6-144</u>
		4	<u>6-169</u>
721	9- 4-01	1 Added	<u>13-26</u>
723	9- 4-01	1—4	2-211—2-214
724	9- 4-01	2 Added	<u>2-131</u> —2-136
726	9- 4-01	1	<u>2-16</u>
729	10- 2-01	1—3	<u>6-18</u>
<u>730</u>	10-16-01	1	<u>10-160</u>
		2	<u>10-161</u>
		3	<u>10-162</u>

732	11-20-01	1 Added	<u>2-141</u> —2-146
735	11-20-01	1	<u>2-1</u> (6)
737	<u>12-</u> 4-01	1 Added	<u>12-40</u>
738	<u>12-</u> 4-01	1	<u>6-1</u> (b)(3)
		2	<u>6-1</u> (c)(1)d.
		3—5	<u>6-18</u>
742	2-19-02	1	<u>6-76</u> (a)
		2	App. C, <u>§ 030</u> (27)
746	5- 7-02	1 Added	<u>20-312</u>
747	5- 7-02	1	<u>2-86.1</u>
		2	<u>2-89</u>
		3	<u>2-134</u> (d)
		4	<u>2-172</u>
748	5-21-02	1	<u>2-117</u>
		2	<u>2-119</u>
		Rpld	2-122
		3 Rpld	<u>2-123</u>
749	5-21-02	1	<u>2-125</u>
		2	<u>2-127</u>
		3 Rpld	<u>2-128</u>
		4 Rpld	<u>2-130</u>
<u>750</u>	5-21-02	1	<u>2-74</u>
751	5-21-02	1	<u>2-152</u>

752	5-21-02	1	<u>2-107</u>
753	5-21-02	1, 2 Rpld	2-90, 2-91
		3	<u>12-7</u>
755	5-21-02	1	<u>2-143</u>
		2, 3 Rpld	<u>2-144, 2-145</u>
757	6-18-02	1	<u>5-34</u>
763	9- 9-02	1	2-211(a), (b)
771	11-19-02	1	<u>15-1</u>
		2	<u>15-4</u>
		3	<u>15-5</u>
		4	<u>15-8(c)</u>
		5	<u>15-9</u>
		6	<u>15-11</u>
773	12-17-02	1—4	App. A
774	1-21-03	1	10-191—10-197
775	1-21-03	1	<u>Ch. 6, Art. X</u> (title)
		2—4	<u>6-226</u>
		5	<u>6-227</u>
		6, 7	<u>6-228, 6-229</u>
		8 Rnbd	<u>6-230—6-233</u>
		as	<u>6-232—6-235</u>
		9	<u>6-230, 6-231</u>
		10—12	<u>6-232—6-234</u>

776	1-21-03	1—4	<u>13-2</u>
777	1-21-03	1	<u>2-1</u>
778	1-21-03	1	<u>2-17(c)(1)</u>
		2	<u>2-173(a)—(c)</u>
782	2-18-03	1	<u>6-18</u>
784	3- 4-03	1	<u>2-86.1</u>
		2	<u>2-89</u>
785	3- 4-03	1	<u>12-7(b)</u>
786	3- 4-03	1	<u>Ch. 2, Art. IV, Div. 8</u>
		2, 3	<u>2-145, 2-146</u>
789	4-15-03	1	<u>5-9</u>
791	5-20-03	1, 2	<u>13-26, 13-27</u>
792	6-17-03	1	<u>4-4</u>
793	6-17-03	1	<u>11-20(a), (b)</u>
795	8- 5-03	1	<u>2-172</u>
		2	<u>2-212</u>
796	8- 5-03	1 Rpld	<u>13-21—13-29</u>
		Added	<u>13-21—13-29</u>
798	9- 2-03	1, 2	<u>2-212(a), (b)</u>
802	10- 7-03	1	App. B, § 060.3(a)
803	10-21-03	1	App. C, § 060.3(3.5)
		2	App. C, <u>§ 160</u>
811	2-16-04	1	<u>20-181</u>

812	4- 6-04	1 Rpld	<u>11-41</u>
		2 Added	<u>11-55, 11-56</u>
818	5- 4-04	1, 2	<u>11-101</u>
822	6-15-04	1—5	<u>11-1</u>
824	7- 6-04	1	<u>11-90</u>
		2	<u>11-92</u>
<u>825</u>	7-20-04	1	<u>6-117(a)</u>
827	7- 6-04	1	<u>6-18</u>
828	8-17-04	1—4	2-211—2-114
<u>830</u>	9- 7-04	1	<u>20-353(c)</u>
831	9- 7-04	1	<u>17.5-5</u>
832	9- 7-04	1	<u>6-91(a)</u>
833	9-21-04	1—3	<u>20-4</u>
		4	<u>20-279</u>
		5	<u>Ch. 20, Art. XIII</u> (title)
		6	<u>20-411(b), 20-412,</u> <u>20-414(b), 20-416—</u> <u>20-419</u>
		7, 8	<u>20-413, 20-414</u>
		9, 10	<u>20-422, 20-423</u>
837	10-19-04	Art. I, §§ 1—13 Added	2-161—2-273
		Art. II, §§ 1—6 Added	<u>2-301—2-306</u>

		2	App. B, § 160.10
		3	App. B, <u>§ 240</u>
844	12-21-04	2	<u>19-32, 19-38</u>
<u>845</u>	12-21-04	2 Added	<u>6-95</u>
847	2-1-05	1	<u>10-165(b)</u>
		2 Added	<u>10-165(c), (d)</u>
		3	<u>10-177(b)</u>
		4	<u>10-177(e)</u>
848	2-1-05	1 Added	<u>20-286</u>
849	2-15-05	1	<u>15-29</u>
852	2-15-05	1 Added	<u>6-240—6-244</u>
853	3-15-05	1	<u>2-173</u>
		2	<u>2-174(5)</u>
		3	<u>2-176</u>
		4	<u>2-177(a)</u>
854	3-15-05	1	<u>6-1(c)</u>
		2	<u>6-19</u>
		3	<u>6-38(b)</u>
		4	<u>6-144</u>
		5	<u>6-169(a)(2)</u>
<u>855</u>	4-5-05	1 Added	<u>11-131—11-133</u>
856	4-5-05	1	<u>17.5-5(2)a.1.</u>
857	4-19-05	1—3 Added	19-1

858	5-3-05	1	<u>10-72</u>
		2	<u>10-76</u>
<u>860</u>	5-17-05	1	<u>20-481</u>
862	5-17-05	1	<u>10-164</u>
		2	<u>10-178(a)</u>
		3 Added	<u>10-179</u>
863	5-17-05	1	App. C, § 360.4
		2	App. C, § 360.4(2)
864	6-7-05	1	<u>2-16</u>
<u>865</u>	6-7-05	1—11 Added	<u>6-261—6-271</u>
		<u>13, 14</u> Added	<u>6-272, 6-273</u>
871	8-16-05	1—4	2-211—2-214
873	9-20-05	1—5 Added	<u>2-148</u>
876	1-3-06	1, 2	<u>20-4</u>
		3	<u>20-354(a)</u>
880	2-21-06	1 Added	<u>20-354(d)</u>
881	4-18-06	1—3, 5 Added	<u>16-1</u>
882	4-18-06	1, 2 Added	<u>11-42.3</u>
886	8-1-06	1	<u>20-481</u>
888	8-1-06	1	2-211—2-214
890	8-15-06	1	<u>6-76(a)</u>
892	9-19-06	1 Added	<u>7.5-1—7.5-7,</u> <u>7.5-25—7.5-32</u>
893	9-19-06	1	App. C § 360.3(27)

896	<u>12</u> - 5-06	1	<u>1-13</u> , <u>5-34(f)</u> ,
			<u>6-18</u> , <u>6-37</u> ,
			<u>6-94</u> , <u>6-143</u> ,
			<u>6-151(c)</u> , <u>6-178</u>
			<u>6-235</u> , <u>6-244(e)</u> ,
			<u>6-273</u> , <u>7-22</u> ,
			<u>8-18</u> , <u>8-35(a)</u> ,
			<u>10-1(b)</u> , <u>10-79</u> ,
			<u>10-111</u> , <u>10-148</u> ,
			<u>10-178(e)</u> , <u>10-197</u> ,
			<u>11-56(b)</u> , <u>11-84(c)</u> ,
			<u>11-100(c)</u> ,
			<u>11-101(b)</u> ,
			<u>11-131(e)(1)</u> ,
			<u>11-132(d)</u> ,
			<u>11-133(e)</u> ,
			<u>13-1(e)</u> , <u>13-28</u> ,
			<u>17.5-15</u> ,
			<u>18-30</u> , <u>19-1(c)</u> ,
			<u>19-113</u> ,
			<u>20-172(b)</u> ,
			<u>20-285(b)</u> ,
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897	<u>12</u> - 5-06	1	<u>12-35</u>
898	12-19-06	1 Added	<u>20-445</u>
899	12-19-06	1 Added	<u>20-444</u>
<u>900</u>	12-19-06	1 Rpld	<u>20-441(a)</u>
		Added	<u>20-441(a)</u>
901	2- 6-07	1 Added	<u>11-81(e)</u>
904	3- 6-07	1 Added	<u>16.5-1</u> —16.5-10
908	4-17-07	1, Rule 1 Rpld	<u>2-32, 2-33</u>
		Added	<u>2-32</u>
909	5- 1-07	1 Rpld	<u>20-442</u>
		Added	<u>20-442</u>
		Added	<u>20-442.1</u>
913	7-17-07	Rpld	<u>20-393</u>
		Added	<u>20-393</u>
914	8- 7-07	1 Added	<u>11-27(f)</u>
917	9- 4-07	1—4	2-211—2-214
918	9- 4-07	1 Rpld	<u>12-39</u>
		Added	<u>12-39</u>
919	10- 2-07	1 Rpld	<u>20-35</u>
		Added	<u>20-35</u>
<u>920</u>	10- 2-07	1(Exh. A) Added	<u>2-55</u>
922	10-16-07	1 Added	<u>4-24(a)(8)</u>
923	<u>11</u> - 6-07	1	<u>20-481</u>

925	11-20-07	1	<u>20-481</u>
933	4-15-08	2 Added	<u>6-215</u>
934	4-15-08	1	<u>17.5-3</u>
		2 Added	<u>17.5-12(8)</u> —(11)
936	5-20-08	1	<u>19-108(a)</u>
		2 Rpld	<u>19-112</u>
938	5-20-08	1 Added	<u>20-411.1</u>
		2 Rpld	<u>20-420</u>
		Added	<u>20-420</u>
		3 Added	<u>20-420.1</u>
		4	<u>20-423</u>
		5 Added	20-424
<u>940</u>	7-15-08	1	<u>17.5-3</u>
		2 Added	<u>17.5-5(2)(b)13.</u>
		3 Added	<u>17.5-12(12)</u>
		4 Rpld	<u>17.5-12(3)f.</u>
941	7-15-08	1 Added	<u>7.5-50</u> —7.5-62
942	7-15-08	1	App. C, § 030.3(27)
		2 Rpld	<u>6-76(a)</u>
		Added	<u>6-76(a)</u>
944	8-19-08	1—4	2-211—2-214
		2	<u>6-141</u> —6-143 <u>6-146</u>
946	8-19-08	2	<u>6-141</u> —6-143

			<u>6-146</u>
948	9-16-08	1 Rpld	10-191—10-197
		Added	10-191—10-198
949	<u>10</u> - 7-08	1 Rpld	<u>13-25(a)</u>
		Added	<u>13-25(a)</u>
		2 Rpld	<u>13-26</u>
		Added	<u>13-26</u>
950	7-15-08	1 Added	<u>13-61</u> —13-64
951	10-21-08	1	<u>20-481</u>
953	12-16-08	1	<u>6-243(a)</u>
		2	<u>6-244(a)</u>
		3 Rpld	<u>6-144(f)(2)</u>
		4 Added	<u>6-244(f)(2)</u>
954	12-16-08	1 Added	<u>11-102</u>
955	12-16-08	1	<u>20-481</u>
957	12-16-08	1	<u>20-482</u>
958	1-20-09	1 Rpld	App. B
		Added	App. B
959	1-20-09	1	App. B, Art. X, <u>§ 1000</u>
960	2-17-09	1—8 Added	<u>10-62</u>
966	3-17-09	1 Dltd	<u>2-202</u>
		Added	<u>2-202</u>
		2 Dltd	<u>2-203</u>

		Added	<u>2-203</u>
		3	<u>2-204(a)</u>
968	3-17-09	1	<u>6-16,</u> <u>6-36,</u> <u>6-92,</u> <u>6-141,</u> <u>6-151,</u> <u>8-16</u>
		2	<u>Ch. 17.5</u> (Note)
969	3-17-09	1 Added	<u>7.5-33</u>
973	5-19-09	1	<u>2-173(a)</u>
		2	<u>2-173(b)</u>
		3 Added	<u>2-173(g)</u>
		4 Dlt'd	<u>2-174</u>
		Added	<u>2-174</u>
974	5-19-09	1 Rpld	<u>6-215</u>
		Added	<u>6-215</u>
972	3-17-09	1 Rpld	<u>17.5-12(8)</u> —(11)
		2 Rpld	<u>17.5-12(12)</u>
		3 Added	<u>17.5-12(8), (9)</u>
975	6-16-09	1, 2	<u>17.5-3</u>
		3	<u>17.5-5(2)a.7.</u>
		4	<u>17.5-5(2)b.6.</u>
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981	8- 4-09	1 Dlt'd	8-4-09
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